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BUREAU OF INTERNATIONAL RESEARCH  
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POST-WAR TREATIES FOR THE  
PACIFIC SETTLEMENT OF  
INTERNATIONAL DISPUTES

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# POST-WAR TREATIES FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES

A COMPILATION AND ANALYSIS OF TREATIES OF  
INVESTIGATION, CONCILIATION, ARBITRATION, AND  
COMPULSORY ADJUDICATION, CONCLUDED DURING  
THE FIRST DECADE FOLLOWING THE WORLD WAR

BY

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TO

MANLEY O. HUDSON

BEMIS PROFESSOR OF INTERNATIONAL LAW  
HARVARD LAW SCHOOL



## PREFACE

THE solemn renunciation of war as an instrument of national policy, which has been embodied lately in the Pact of Paris, calls, of necessity, for the creation of methods which can provide substitutes for war and can guarantee the pacific settlement of international disputes.

Since the end of the World War a great effort has been made to build up such pacific methods in the Covenant of the League of Nations, in the Statute of the Permanent Court of International Justice, and in special treaties for the pacific settlement of international disputes.

The peace machineries of Geneva and The Hague have already been made the subject of a great number of publications. Less numerous are the studies on the post-war treaties for the pacific settlement of future international disputes. It has, therefore, been the object of this research to bring together the original texts of all the treaties of investigation, conciliation, arbitration, and compulsory adjudication concluded since the Armistice, and to give a complete review of the activity of the Governments in this particular field during the first decade following the World War.

The first part of the publication presents the collected treaty texts accompanied by a translation into English of treaties drawn up in other languages. An indication of the sources used will be found at the beginning of each text. Information concerning the composition of permanent commissions of investigation or conciliation, taken from answers to a questionnaire sent out by the author to the Governments concerned, has also been added.

The second part of the publication gives a description and analysis of the methods of pacific procedure embodied in the collected treaties, comparing the various types of the agreements and showing their gradual development. References to the particular articles of the treaties described accompany the analysis, to enable readers to turn easily to the fundamental sources and form their own interpretations.

The law established by these treaties has not yet been tested in any court, and a number of legal problems raised by the treaties are still unsettled. Their elucidation demands special and far-reaching studies, which it has not been possible to undertake in connection with this research. In order to facilitate such studies a



collection of references to the literature on the pacific settlement of international disputes has been appended.

This research was undertaken at the suggestion of Professor Manley O. Hudson of the Harvard Law School, to whom the author feels greatly obliged for his valuable advice and assistance. The author also is deeply indebted to Judge John Bassett Moore for the interest he has shown in this research and the opportunities he has granted for discussing with him numerous problems which have arisen. The author also wishes to express his sincere thanks to his friends Dr. Francis Deák and Dr. Stephen P. Ladas for their valuable help in the preparation of this publication. Special thanks are also due to the Bureau of International Research of Harvard University and Radcliffe College, which made it possible for this study to be carried out, and to the Secretariat of the League of Nations, which has furthered it in many ways. The author wishes also to thank the Governments that answered the questionnaires sent to them and were kind enough to supply the treaty texts.

MAX HABICHT

GENEVA, May 1, 1930

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## INTRODUCTION

DURING the first decade following upon the World War more than a hundred treaties were concluded with the exclusive purpose of providing a permanent machinery for the pacific settlement of future international disputes. This body of newly created law is presented in the following compilation, which contains the texts of 130 treaties of investigation, conciliation, arbitration, and compulsory adjudication signed from November 11, 1918, to November 11, 1928.<sup>1</sup>

<sup>1</sup> Agreements for the prolongation of treaties concluded before the Armistice have not been taken into consideration nor agreements submitting to arbitration disputes which had already arisen. For references to such agreements, see League of Nations, *Arbitration and Security* (Doc. C. 653, M. 216, 1927, V) and Annemarie Niemeyer, "Regesten der Schiedsgerichts- und Vergleichsverträge seit 1914," in *Niemeyers Zeitschrift für Internationales Recht*, vol. XXXIX, No. 6, p. 387. Cf. also "Index of Bipartite Arbitration Treaties Believed to be Currently in Force," by Denys P. Myers, in *World Peace Foundation Pamphlets*, vol. IX, Nos. 6-7, and "Chronologische Lijst van Arbitrage- en Conciliatie-Verdragen gesloten sinds de Eerste Fredesconferentie," in *Arbitrage en Conciliatie*, by C. A. Kluyver, The Hague, 1928.

In view of the numerous publications dealing with the Permanent Court of International Justice, its Statute, and Rules, the law governing the Permanent Court of International Justice has not been reproduced in this compilation with the exception of Article 36 of its Statute and the Optional Clause of the Protocol of Signature thereof, (see No. 129).

Since the conclusion of this compilation information has been received regarding the signature of the following treaties of Investigation, Conciliation, Arbitration, and Compulsory Adjudication:

Signed	States
Nov. 14, 1928	United States-Lithuania (Investigation)
Nov. 14, 1928	United States-Lithuania (Arbitration)
Nov. 15, 1928	Spain-Czechoslovakia
Nov. 30, 1928	Hungary-Poland
Dec. 1928	Poland-Spain
Dec. 10, 1928	Switzerland-Turkey
Dec. 12, 1928	Hungary-Finland
Dec. 27, 1928	Norway-Spain
Jan. 5, 1929	Hungary-Turkey
Jan. 5, 1929	American Republics (Conciliation)
Jan. 5, 1929	American Republics (Arbitration)
Jan. 5, 1929	American Republics (Protocol of Progressive Arbitration)
Jan. 21, 1929	United States-Yugoslavia (Investigation)
Jan. 21, 1929	United States-Yugoslavia (Arbitration)
Jan. 21, 1929	United States-Bulgaria (Investigation)
Jan. 21, 1929	United States-Bulgaria (Arbitration)
Jan. 25, 1929	Germany-Union of Soviet Socialist Republics
Jan. 26, 1929	United States-Hungary (Investigation)
Jan. 26, 1929	United States-Hungary (Arbitration)
Jan. 26, 1929	United States-Ethiopia (Investigation)
Jan. 26, 1929	United States-Ethiopia (Arbitration)

These treaties have been concluded between 52 States and can be divided into five multipartite and 125 bipartite instruments. Agreements referring disputes between the parties to a commission for "investigation and report" are classified hereafter as Treaties of Investigation. An instrument charging the commission "to submit a scheme for the settlement of the dispute" or "to endeavor to bring the parties to an agreement" will be called a Treaty of Conciliation. Agreements providing for the submission of a dispute to a tribunal for a binding decision are indicated as Treaties of Arbitration or Treaties of Compulsory Adjudication.

Whenever a document provides for the submission of a dispute to the Permanent Court of International Justice at the simple request of one party, either from the outset or at a later stage of the controversy, the method is referred to as a "procedure of compulsory adjudication." All other agreements providing for the submission of disputes to an international tribunal are classified as Treaties of Arbitration.

With regard to the contents of the treaties:

- 10 contain provisions for investigation,
- 92 contain provisions for conciliation,
- 96 contain provisions for arbitration, and
- 56 contain provisions for compulsory adjudication.

Signed	States
Feb. 20, 1929	United States-Norway
March 6, 1929	Bulgaria-Turkey
March 20, 1929	United States-Belgium (Investigation)
March 20, 1929	United States-Belgium (Arbitration)
March 21, 1929	United States-Rumania (Investigation)
March 21, 1929	United States-Rumania (Arbitration)
March 27, 1929	Greece-Yugoslavia
May 21, 1929	Czechoslovakia-Rumania-Yugoslavia
June 10, 1929	Spain-Hungary
June 1929	Belgium-Greece
July 11, 1929	France-Spain
July 22, 1929	Bulgaria-Hungary
Aug. 27, 1929	United States-Egypt (Investigation)
Aug. 27, 1929	United States-Egypt (Arbitration)
Sept. 11, 1929	Germany-Luxemburg
Sept. 14, 1929	Netherlands-Czechoslovakia
Sept. 16, 1929	Switzerland-Luxemburg
Sept. 20, 1929	Switzerland-Czechoslovakia
Sept. 26, 1929	Costa Rica-Spain
Oct. 3, 1929	Finland-Czechoslovakia
Oct. 24, 1929	Poland-Rumania

As a result of the treaties seven permanent commissions of investigation and 81 permanent commissions of conciliation have been established. The composition of these commissions is shown in a note following the text of the particular treaty which instituted the commission. Similar information concerning the permanent commissions created before the Armistice is contained in Annex I in order to provide a complete list of the existing commissions of investigation and conciliation.

In the first half of the period under consideration the conclusion of treaties for the pacific settlement of international disputes was still rare. It is only since 1924 that a rapid increase in the number of such treaties signed can be observed. In that year the Fifth Assembly of the League of Nations adopted the "Geneva Protocol,"<sup>1</sup> which had a decisive influence on the further development of pacific procedures. Although this Protocol has never been put into force, it greatly stimulated interest in pacific methods, and numerous treaties on the subject have been concluded as a consequence of the discussions in the Assembly of the League.

<sup>1</sup> The text of the Geneva Protocol has been added to this collection as an Annex. It has also been considered useful to add the texts of the Second Hague Convention for the Pacific Settlement of International Disputes, the General Act for the Pacific Settlement of International Disputes adopted by the Ninth Assembly of the League of Nations, and the Treaties of Conciliation and Arbitration of the Washington Conference of the American Republics.

The following table shows the number of treaties <sup>1</sup> concluded each year during the period under discussion.

TABLE I

Year	Number of Treaties Signed																																						
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37		
1918 (From November 11)																																							
1919																																							
1920																																							
1921																																							
1922																																							
1923																																							
1924																																							
1925																																							
1926																																							
1927																																							
1928 (To November 11)																																							

<sup>1</sup> The signatures of the Optional Clause of the Statute of the Permanent Court of International Justice have not been taken into account in this first table.





The network of new obligations created by the post-war treaties is quite considerable, as may be seen from the two diagrams below. The first diagram shows the obligations accepted by the Governments since the World War to submit their disputes to an advisory pacific procedure, either to the Council of the League of Nations or to a commission of investigation or conciliation. The second diagram deals with the judicial regulation of international disputes and shows the agreements for arbitration and compulsory adjudication contained in the post-war treaties collected in this volume.

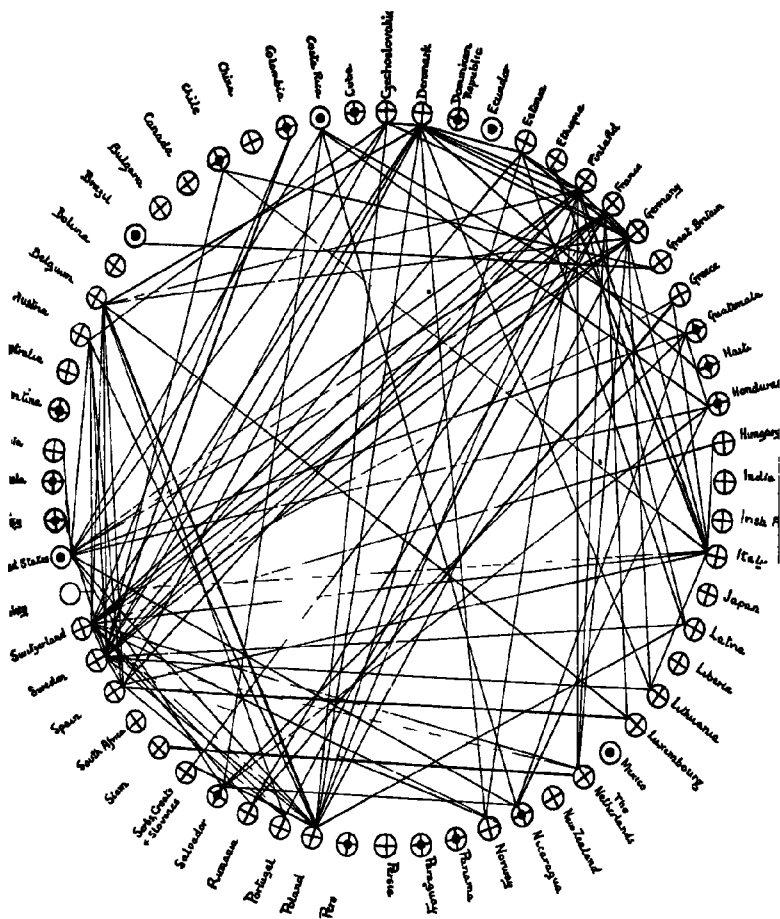


TABLE III

DIAGRAM SHOWING THE ADVISORY PACIFIC PROCEDURES INSTITUTED SINCE THE  
WORLD WAR (TO NOVEMBER 11, 1928)

- ⊗ Represents the Governments which have adopted the pacific procedure provided for in the Covenant of the League of Nations.
- ⊙ Indicates the American Republics which have signed or adhered to the multipartite Convention of Investigation of Santiago de Chile (Gondra Convention).
- Indicates the other agreements for investigation or conciliation concluded since the Armistice.

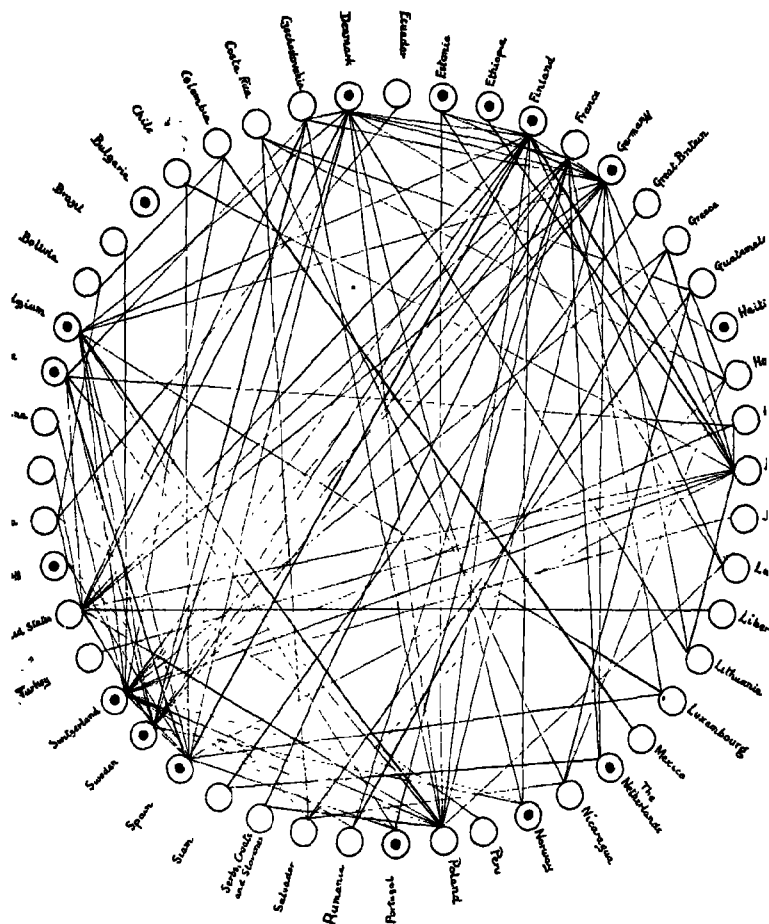


TABLE IV

DIAGRAM SHOWING THE JUDICIAL PACIFIC PROCEDURES INTRODUCED  
BY THE TREATIES

⊙ Represents the Governments in regard to which Article 36, §2, of the Statute of the Permanent Court of International Justice has entered into force to Nov. 11, 1928. For later developments see No. 129.

⌋ Indicates the conclusion of an agreement of Arbitration or Compulsory Adjudication.

**PART I**

**TEXTS OF THE TREATIES**



## No. 1

### BOLIVIA-COLOMBIA: TREATY OF ARBITRATION

Signed at Bogotá November 13, 1918; ratifications exchanged February 19, 1923.

Original text in Spanish taken from Bolivia, *Tratados Vigentes, 1825-1925*, I, 257-259; English translation by a translator of the Secretariat of the League of Nations.

(Translation)

El Gobierno de la República de Bolivia y el Gobierno de la República de Colombia, animados del deseo de afirmar los vínculos de amistad que existen entre las dos Repúblicas, y con el propósito de reiterar su adhesión a los principios jurídicos que inspiraron la Convención de Arbitraje firmada en La Haya el 18 de Octubre de 1907 para el arreglo pacífico de los conflictos internacionales, han resuelto celebrar un Tratado General de Arbitraje amplio, habiendo nombrado con este objeto sus Plenipotenciarios, a saber:

Su Excelencia el Señor Presidente de la República de Bolivia, al Señor Don Alberto Diez de Medina, Enviado Extraordinario y Ministro Plenipotenciario ante el Gobierno de Colombia, y Su Excelencia el Señor Presidente de la República de Colombia, al Señor Doctor Don Pedro Antonio Molina, Ministro de Relaciones Exteriores, quienes, después de haberse comunicado sus plenos poderes y encontrándolos en buena y debida forma, han convenido en lo siguiente:

ARTÍCULO I. Las Altas Partes Contratantes someterán a la decisión de los árbitros señalados en el Artículo II de este Tratado, todas las controversias de cualquier naturaleza que fueren y que pudieren

The Government of the Republic of Bolivia and the Government of the Republic of Colombia, being desirous of strengthening the bonds of friendship which exist between the two Republics, and with the intention of reaffirming their acceptance of the legal principles underlying the Arbitration Convention signed at the Hague on October 18th, 1907, for the pacific settlement of international disputes, have resolved to conclude a General Treaty of Comprehensive Arbitration, and have for that purpose appointed as their Plenipotentiaries, that is to say:

His Excellency the President of the Republic of Bolivia, Señor Don Alberto Diez de Medina, Envoy Extraordinary and Minister Plenipotentiary to the Government of Colombia, and His Excellency the President of the Republic of Colombia, Señor Doctor Don Pedro Antonio Molina, Minister of Foreign Affairs, who, having exchanged their full powers, found in good and due form, have agreed upon the following:

ARTICLE I. The High Contracting Parties shall submit to the decision of the arbitrators specified in Article II of this treaty all disputes of whatever nature that may exist or may arise between them, if such

surgir entre ellas, siempre que no llegasen a ser resueltas por la vía diplomática directa.

Quedan únicamente exceptuadas las cuestiones que se suscitaren y cuya decisión fuere de la competencia ordinaria de los Tribunales de justicia bolivianos o colombianos.

ART. II. La designación de los árbitros que formarán el tribunal llamado a resolver las cuestiones sometidas a su decisión en cumplimiento del Artículo I de este Tratado, se hará entre los Jefes de Estado de las Repúblicas Americanas, o cuando ello se crea necesario, entre jueces o expertos americanos. En el único caso en que no fuera posible llegar a un acuerdo sobre la designación de árbitros en la forma establecida por el Artículo anterior, las Altas Partes Contratantes se someterán a la Corte Permanente de Arbitraje establecida conforme a las resoluciones de las Conferencias de La Haya de 18 de Octubre de 1907 y de acuerdo con el Artículo 43 del referido Convenio.

ART. III. Las Altas Partes Contratantes firmarán un compromiso especial en cada caso particular a objeto de determinar la naturaleza del litigio, la constitución del Tribunal Arbitral y en general todas las reglas y procedimientos que fueren indispensables para la mejor organización de éste.

ART. IV. El presente Tratado será ratificado por las Altas Partes Contratantes y las ratificaciones serán canjeadas en La Paz o en Bogotá, dentro del más breve término.

ART. V. Este Tratado permanecerá en vigor por un período de diez años; y si no fuere denunciado seis meses antes de su vencimiento,

disputes cannot be settled through the direct diplomatic channel.

The sole exception shall relate to questions the settlement of which falls within the ordinary jurisdiction of the Bolivian or Colombian courts of justice.

ART. II. The arbitrators who are to form the court called upon to settle the questions submitted for its decision under Article I of this treaty shall be selected from among the Chiefs of State of the American Republics, or, where this is thought necessary, from among American judges or experts. In the sole case of its being impossible to arrive at an agreement regarding the appointment of arbitrators in the form laid down in the preceding Article, the High Contracting Parties shall apply to the Permanent Court of Arbitration established in pursuance of the resolutions of the Hague Conferences of October 18th, 1907, and in accordance with Article 43 of the Convention of that date.

ART. III. The High Contracting Parties shall sign a special agreement in each separate case in order to determine the nature of the dispute, the constitution of the court of arbitration, and in general all rules and procedures that may be essential for its efficient organization.

ART. IV. The present treaty shall be ratified by the High Contracting Parties, and the ratifications shall be exchanged at La Paz or at Bogotá as soon as possible.

ART. V. This treaty shall remain in force for a period of ten years, and, unless denounced six months before its expiry, shall be

se entenderá renovado por otro período igual, sucesivamente.

En fe de lo cual, los Plenipotenciarios indicados han firmado el presente Tratado en doble ejemplar y lo sellan con sus respectivos sellos, en Bogotá, a trece de Noviembre de mil novecientos diez y ocho.

A. Díez de Medina  
Pedro Antonio Molina

deemed to be renewed for another period of ten years thereafter.

In witness whereof the above-named Plenipotentiaries have signed the present treaty in duplicate and sealed it with their seals at Bogotá, this thirteenth day of November one thousand nine hundred and eighteen.

A. Díez de Medina  
Pedro Antonio Molina

## No. 2

### CHILE-GREAT BRITAIN: TREATY OF INVESTIGATION

Signed at Santiago March 28, 1919; ratifications exchanged October 23, 1919; abrogated April 4, 1922.<sup>1</sup>

Original text from Great Britain, *Treaty Series*, 1920, No. 3 (Cmd. 518).<sup>2</sup>

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and his Excellency the President of the Republic of Chile, being desirous to strengthen the bonds of amity that bind them together, and also to advance the cause of general peace, have resolved to enter into a Treaty for that purpose, and to that end have appointed as their Plenipotentiaries:

His Britannic Majesty: his Excellency Sir Francis Stronge, His Envoy Extraordinary and Minister Plenipotentiary at Santiago; and

His Excellency the President of the Republic of Chile: his Excellency Don Luis Barros Borgoño, Minister of Foreign Affairs;

Who, after having communicated to each other their respective full powers, found to be in proper form, have agreed upon and concluded the following articles:

ARTICLE 1. The High Contracting Parties agree that all disputes between them, of every nature whatsoever, other than disputes the settlement of which is provided for and, in fact, achieved under existing agreements between the High Contracting Parties, shall, when diplomatic methods of adjustment have failed, be referred for investigation and report to a Permanent International Commission, to be constituted in the manner prescribed in the next succeeding article; and they agree not to declare war or begin hostilities during such investigation and before the report is submitted.

ART. 2. The International Commission shall be composed of five members, to be appointed as follows:

One member shall be chosen from each country by the Government thereof; one member shall be chosen by each Government from some

<sup>1</sup> See League of Nations, *Treaty Series*, XI, 460.

<sup>2</sup> The Spanish text is also authentic.



third country; the fifth member shall be chosen by common agreement between the two Governments, it being understood that he shall not be a citizen of either country.

The expenses of the Commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of the ratifications of this Treaty, and vacancies shall be filled according to the manner of the original appointment.

ART. 3. In case the High Contracting Parties shall have failed to adjust any such dispute by diplomatic methods, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, spontaneously, by unanimous agreement, offer its services to that effect, and in such cases it shall notify both Governments and request their co-operation in the investigation.

In the event of its appearing to His Majesty's Government that the British interests affected by the dispute to be investigated are not mainly those of the United Kingdom, but are mainly those of some one or more of the self-governing Dominions, namely, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland, His Majesty's Government shall be at liberty to substitute as the member chosen by them to serve on the International Commission for such investigation and report another person selected from a list of persons to be named, one for each of the self-governing Dominions, but only one shall act, namely, that one who represents the Dominion immediately interested.

The High Contracting Parties agree to furnish the Permanent International Commission with all the means and facilities required for its investigation and report.

The report of the International Commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the High Contracting Parties shall limit or extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each Government and the third retained by the Commission for its files.

The High Contracting Parties reserve the right to act independently on the subject-matter of the dispute after the report of the Commission shall have been submitted.

ART. 4. The present Treaty shall be ratified, and the ratifications shall be exchanged at Santiago as soon as possible. It shall take effect immediately after the exchange of ratifications, and shall continue in force for a period of five years, and it shall thereafter remain in force until twelve months after one of the High Contracting Parties have given notice to the other of an intention to terminate it.

In witness whereof the respective Plenipotentiaries have signed the present Treaty and have affixed thereunto their seals.

Done in duplicate at Santiago, on the twenty-eighth day of March, in the year of Our Lord one thousand nine hundred and nineteen.

Francis Stronge  
Luis Barros Borgoño

## No. 3

## BRAZIL-GREAT BRITAIN: TREATY OF INVESTIGATION

Signed at Rio de Janeiro April 4, 1919; ratifications exchanged March 11, 1921.

Original text from Great Britain, *Treaty Series*, 1921, No. 8 (Cmd. 1278).<sup>1</sup>

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and the Acting President of the Republic of the United States of Brazil, desirous of once more giving expression to the traditional friendship existing between the two countries, and uniting to promote the cause of civilisation by peaceful means, have resolved to enter into a special Treaty for the amicable settlement of any future difficulties which may arise between the two countries, and for that purpose have appointed as their Plenipotentiaries:

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, Sir Arthur Robert Peel, K. C. M. G., his Envoy Extraordinary and Minister Plenipotentiary at Rio de Janeiro; and

The Acting President of the Republic of the United States of Brazil, M. Domicio da Gama, Minister of State for Foreign Affairs;

Who, being duly authorised, have agreed on the following articles:

ARTICLE 1. The two High Contracting Parties agree to submit to the investigation of a permanent Commission, which will give its report thereon, all difficulties of an international character which may arise between them and cannot be directly resolved by diplomatic means, and which do not fall within the terms of the Arbitration Convention in force between the two countries; and they further agree not to declare war the one against the other, nor to commence hostilities, until the result of such investigation shall be submitted.

ART. 2. The above-mentioned Commission shall be composed of five members, each of them nominated for five years, in the following manner: Each Government shall select two members, only one of them being a national of the country nominating him. The fifth shall be chosen by mutual agreement between the two Governments, it being understood that he shall not belong to any of the nationalities already represented on the Commission.

This fifth member shall exercise the function of President.

In the event of its appearing to His Majesty's Government that the British interests affected by the dispute to be investigated are not mainly those of the United Kingdom, but are mainly those of some one or more of the self-governing Dominions, namely, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of

<sup>1</sup> See also League of Nations, *Treaty Series*, V, 46. The Portuguese text is also authentic.

South Africa, and Newfoundland, His Majesty's Government shall be at liberty to substitute as the member chosen by them to serve on the international Commission for such investigation and report, another person selected from a list of persons to be named, one for each of the self-governing Dominions, but only one shall act, namely, that one who represents the Dominion immediately interested.

The expenses of the Commission shall be paid by the two Governments in equal proportions.

The Commission shall be constituted and shall be prepared to operate within six months after the exchange of ratifications of the present Treaty.

At the end of each period of five years the members shall be reappointed or others substituted.

Vacancies shall be filled according to the manner of the original appointment.

The Commission shall formulate its own rules of procedure.

ART. 3. In case the High Contracting Parties shall have failed to adjust any such question of an international nature by diplomatic methods, they shall refer it to the said Commission for investigation and report.

The Commission may be convened by either of the High Contracting Parties, and will operate preferably in the country which offers the greater facilities for examination of the question, for which purpose the High Contracting Parties shall furnish all assistance.

The report of the Commission shall be presented within one year after the date on which the Commission shall declare its investigation to have begun, unless a prorogation is agreed to by both parties.

This report, which is of a purely consultative nature and does not bind the High Contracting Parties on the subject in question, shall be prepared in triplicate, each of the Governments receiving one copy and the third being preserved in the archives of the Commission.

ART. 4. After presentation of the report to both Governments they shall have six months in which to negotiate an agreement in accordance with the Commission's report, and if, at the end of this further period, they do not succeed in coming to an understanding, they shall submit the dispute to arbitration in conformity with the terms of the Convention concluded between the two High Contracting Parties on the 18th June, 1909.

ART. 5. The present Treaty shall be ratified by the two High Contracting Parties in the manner prescribed by their national constitutions, and the ratifications shall be exchanged as soon as possible. The Treaty shall take effect immediately after the exchange of ratifications, and shall continue in force for a period of five years, and it shall thereafter remain in force until twelve months after one of the High Contracting Parties has given notice to the other of an intention to terminate it.

The strict and loyal fulfilment of the preceding clauses is confided to the honour of the signatory nations.

In witness thereof the respective Plenipotentiaries have signed the present Treaty, and have affixed thereunto their seals.

Done in duplicate in the English and Portuguese languages, at Rio de Janeiro, on the fourth day of April in the year nineteen hundred and nineteen.

Arthur Robert Peel  
Domicio da Gama

PERMANENT COMMISSION OF INVESTIGATION

No information available.

No. 4

BOLIVIA-VENEZUELA: TREATY OF ARBITRATION

Signed at Caracas April 12, 1919; promulgated by the President of Bolivia June 28, 1921.

Original text from Bolivia, *Tratados Vigentes, 1825-1925*, I, 219-221; English translation by a translator of the Secretariat of the League of Nations.

(Translation)

El Gobierno de la República de Bolivia y el Gobierno de los Estados Unidos de Venezuela, animados del deseo de afirmar los vínculos de amistad que existen entre las dos Repúblicas, y con el propósito de reiterar su adhesión a los principios jurídicos que inspiraron la Convención de Arbitraje firmada en La Haya el 29 de Julio de 1899 para el arreglo pacífico de los conflictos internacionales, han resuelto celebrar un Tratado General de Arbitraje amplio, habiendo nombrado con tal objeto sus Plenipotenciarios, a saber:

Su Excelencia el Presidente de la República de Bolivia, al Señor don Alberto Díez de Medina, Enviado Extraordinario ante el Gobierno de Venezuela, y Su Excelencia el Presidente de los Estados Unidos de Venezuela, al Señor Doctor Esteban Gil Borges, Ministro de Relaciones Exteriores, quienes, después de haberse comunicado sus Plenos Poderes y encontrándolos en buena y debida forma han convenido en lo siguiente:

ARTÍCULO 1º. Las Altas Partes Contratantes someterán a la de-

The Government of the Republic of Bolivia and the Government of the United States of Venezuela, being desirous of strengthening the bonds of friendship which exist between the two Republics, and with the intention of reaffirming their acceptance of the legal principles underlying the Arbitration Convention signed at the Hague on July 29th, 1899, for the pacific settlement of international disputes, have resolved to conclude a General Treaty of Comprehensive Arbitration, and have for that purpose appointed as their Plenipotentiaries, that is to say:

His Excellency the President of the Republic of Bolivia, Señor Don Alberto Díez de Medina, Envoy Extraordinary to the Government of Venezuela, and His Excellency the President of the United States of Venezuela, Doctor Esteban Gil Borges, Minister of Foreign Affairs, who, having exchanged their full powers, found in good and due form, have agreed upon the following:

ARTICLE 1. The High Contracting Parties shall submit to the de-

cisión de los Arbitros señalados en el Artículo 2º de este Tratado todas las controversias de cualquier naturaleza que fueren y que pudieren surgir entre ellas, siempre que no llegasen a ser resueltas directamente por la vía diplomática.

Quedan únicamente exceptuadas las cuestiones que se suscitaren y cuya decisión fuere de la competencia ordinaria de los Tribunales de justicia bolivianos o venezolanos.

ART. 2º. La designación de los Arbitros que formarán el tribunal llamado a resolver las cuestiones sometidas a su decisión en cumplimiento del Artículo 1º de este Tratado, se hará entre los jefes de Estado de las Repúblicas Americanas, o cuando ello se crea necesario, entre juristas americanos. En el único caso en que no fuere posible llegar a un acuerdo sobre la designación de Arbitros en la forma establecida por el Artículo anterior, las Altas Partes Contratantes se someterán a la Corte Permanente de Arbitraje establecida conforme a las resoluciones de la Conferencia de La Haya de 29 de Julio de 1899.

ART. 3º. Las Altas Partes Contratantes firmarán un compromiso especial en cada caso particular a objeto de determinar la naturaleza del litigio, la constitución de Tribunal Arbitral y en general todas las reglas de procedimiento que fueren indispensables para la mejor organización de este.

ART. 4º. El presente Tratado será ratificado por las Altas Partes Contratantes y las ratificaciones serán canjeadas en La Paz o en Caracas, dentro del más breve término.

ART. 5º. Este Tratado permanecerá en vigor por un período de diez

cision of the arbitrators specified in Article 2 of this treaty all disputes of whatever nature that may exist or may arise between them, if such disputes cannot be settled direct through the diplomatic channel.

The sole exception shall relate to questions the settlement of which falls within the ordinary jurisdiction of the Bolivian or Venezuelan courts of justice.

ART. 2. The arbitrators who are to form the court called upon to settle the questions submitted for its decision under Article 1 of this treaty shall be selected from among the Chiefs of State of the American Republics, or, where this is thought necessary, from among American jurists. In the sole case of its being impossible to arrive at an agreement regarding the appointment of arbitrators in the form laid down in the preceding Article, the High Contracting Parties shall apply to the Permanent Court of Arbitration established in pursuance of the resolutions of the Hague Conference of July 29th, 1899.

ART. 3. The High Contracting Parties shall sign a special agreement in each separate case in order to determine the nature of the dispute, the constitution of the court of arbitration, and in general all rules of procedure that may be essential for its efficient organization.

ART. 4. The present treaty shall be ratified by the High Contracting Parties, and the ratifications shall be exchanged at La Paz or at Caracas as soon as possible.

ART. 5. This treaty shall remain in force for a period of ten years,

años, y si no fuere denunciado seis meses antes de su vencimiento, se entenderá renovado por período igual sucesivamente.

En fé de lo cual, los Plenipotenciarios han firmado el presente Tratado en doble ejemplar y lo firman con sus respectivos sellos, en Caracas, a doce de Abril de mil novecientos diez y nueve.

A. Díez de Medina  
E. Gil Borges

and, unless denounced six months before its expiry, shall be deemed to be renewed for another period of ten years thereafter.

In witness whereof the Plenipotentiaries have signed the present treaty in two copies and sealed it with their seals, at Caracas, this twelfth day of April one thousand nine hundred and nineteen.

A. Díez de Medina  
E. Gil Borges

## No. 5

### CHILE-SWEDEN: TREATY OF CONCILIATION

Signed at Stockholm March 26, 1920; ratifications exchanged May 3, 1921.

Original text in French taken from Sweden, *Överenskommelser med främmande makter*, 1921, No. 8; English translation from League of Nations, *Treaty Series*, IV, 273-279.

(Translation)

Sa Majesté le Roi de Suède et Son Excellence le Président de la République du Chili, désirant affermir les relations amicales qui unissent leurs deux pays et servir la cause de la paix générale, ont décidé de conclure un traité à ces fins et nommé, en conséquence, les plénipotentiaires ci-après désignés, savoir:

Sa Majesté le Roi de Suède;

Son Excellence Monsieur le Baron E. Palmstierna, Son Ministre des Affaires Etrangères, et

Son Excellence le Président de la République du Chili;

Don Agustín Edwards, Son Envoyé Extraordinaire et Ministre Plénipotentiaire à Stockholm.

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des articles suivants:

ARTICLE 1<sup>er</sup>. Tout différend, de quelque nature qu'il soit, qui puisse

His Majesty, the King of Sweden, and His Excellency, the President of the Republic of Chile, being desirous of strengthening the friendly relations uniting their two countries, and of furthering the cause of universal peace, have decided to conclude a treaty for this purpose, and have therefore appointed the following plenipotentiaries:

For His Majesty the King of Sweden:

His Excellency Baron E. Palmstierna, Minister for Foreign Affairs.

For His Excellency the President of the Chilean Republic:

Don Augustin Edwards, Envoy Extraordinary, and Minister Plenipotentiary at Stockholm:

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1. Any dispute of any description which may hencefor-

dorénavant survenir entre le Gouvernement de Sa Majesté le Roi de Suède et le Gouvernement de la République du Chili et qui n'aura pu être réglé par les voies diplomatiques ou n'aura pas été renvoyé à la décision judiciaire, soit d'un tribunal d'arbitrage soit de la Cour permanente de Justice à instituer par la Société des Nations, sera soumis à l'enquête d'une Commission permanente, constituée de la manière prévue à l'article suivant.

Avant d'avoir observé la disposition ci-dessus énoncée aucune des Parties ne pourra porter le différend, selon l'article 15 du Pacte de la Société des Nations, devant le Conseil de ladite Société.

ART. 2. La Commission se composera de cinq membres. Chaque Etat désignera deux membres, l'un parmi ses propres nationaux, l'autre parmi les ressortissants d'un Etat tiers. Le cinquième qui remplira les fonctions de Président, appartiendra à un Etat tiers qui n'est pas déjà représenté dans la Commission. Il sera désigné d'un commun accord par les Hautes Parties Contractantes. Au cas où cet accord ne pourrait s'établir, sa désignation aura lieu, à la requête de l'une des Parties, par la Cour permanente de Justice de la Société des Nations et jusqu'au jour où celle-ci entrera en fonctions, par le Président du Conseil Fédéral Suisse. Subsidiairement, il sera fait application de celles des dispositions de l'article 45 de la Convention de la Haye de 1907 pour le règlement pacifique des conflits internationaux, qui régissent le cas où l'accord n'a pu se faire, soit entre les Parties, soit entre les arbitres désignés par elles, sur le choix d'un surarbitre.

ward arise between the Government of H. M. the King of Sweden and the Government of the Republic of Chile, and which it may not have been possible to settle through diplomatic channels, or which shall not have been submitted for judicial decision either to a court of arbitration, or to the Permanent Court of International Justice to be established by the League of Nations, shall be submitted for investigation by a Permanent Commission to be established in accordance with the following Article. Before having carried out the above mentioned provisions neither of the Parties may, in accordance with Article 15 of the Covenant of the League of Nations, submit the dispute to the Council of the League.

ART. 2. The Commission shall be composed of five members. Each State shall appoint two members, one from amongst its own nationals, the other from amongst the nationals of a third State. The fifth member, who shall act as President shall belong to a third State not otherwise represented on the Commission. He will be appointed by agreement between the High Contracting Parties.

In the event of their not being able to agree, he will be appointed, at the request of one of the parties, by the Permanent Court of Justice of the League of Nations, and until the latter shall have entered upon its duties, by the President of the Swiss Federal Council.

In addition, the provisions contained in Article 45 of the Hague Convention of 1907 relating to the peaceful settlement of international disputes, and which provide for cases where it has not been possible to arrive at an agreement, either between the parties or between the

La Commission sera constituée dans les six mois de l'échange des ratifications de la présente convention.

ART. 3. Les membres de la Commission sont nommés pour trois ans. Sauf convention contraire des deux Gouvernements, ils seront inamovibles pendant la durée de leur mandat. En cas de décès ou de retraite d'un membre, il doit être pourvu à son remplacement pour le reste de la durée de son mandat dans les deux mois qui suivront et, en tout cas, dès qu'un différend aura été soumis à la Commission.

ART. 4. Si à l'expiration du mandat d'un membre de la Commission, il n'est pas pourvu à son remplacement, son mandat sera censé renouvelé pour une période de trois ans.

Un membre dont le mandat expire au cours de la procédure relative à un litige restera en fonctions nonobstant le fait que son remplaçant aurait été désigné jusqu'à l'achèvement de la procédure.

Sur la demande de l'une des Hautes Parties Contractantes, les fonctions du Président de la Commission prendront fin à l'expiration de son mandat, non pas toutefois au cours d'une procédure.

ART. 5. Lorsque l'un des deux Etats contractants désire qu'un différend survenu entre eux soit soumis à la Commission, il en avisera tant la Partie adverse que le Président de la Commission. Celui-ci devra dans le plus bref délai convoquer la Commission.

judges appointed by them, with regard to the choice of a supreme arbitrator, will be applied.

The Commission shall be established not later than six months after the exchange of ratifications of the present Convention.

ART. 3. The members of the Commission are appointed for three years. In the absence of any Convention to the contrary, between the two Governments, they shall be irremovable during their term of office. In the event of the death or the retirement of a member, the vacancy must be filled within the next two months for the remainder of his term of office, and in any case this must be done as soon as any dispute has been submitted to the Commission.

ART. 4. If at the end of his term of office, a member of the Commission has not been replaced, his term of office shall be considered as renewed for a period of three years.

A member whose mandate expires during the course of the proceedings in connection with a dispute, shall remain in office until the close of the proceedings, in spite of the fact that his successor has been nominated.

On the request of one of the High Contracting Parties the President of the Commission shall cease to hold office at the end of his appointed term, but not, however, in the course of any proceedings.

ART. 5. When one of the two Contracting States desires that a dispute which has arisen between them shall be submitted to the Commission, it shall notify both the opposing Party and the President of the Commission. The latter shall convene the Commission as soon as possible.



ART. 6. La Commission pourra aussi, de sa propre initiative, offrir son concours en vue de l'ouverture de la procédure d'enquête. Sa décision en l'espèce devra, pour être valable, réunir l'unanimité de ses membres. Elle sera communiquée aux deux Parties. Elle restera sans effet si elle n'amène aucune des Parties à soumettre le différend à la Commission.

ART. 7. La Commission se réunit au lieu fixé par son Président.

Toutefois, si elle le juge nécessaire en vue, soit d'une descente sur les lieux, soit de la conduite à d'autres égards satisfaisante de l'enquête, elle pourra transférer une partie de ses travaux dans un lieu autre que celui de sa réunion. Il lui sera également loisible de charger son Président ou certains de ses membres de procéder dans un autre lieu à une partie de l'enquête. Si elle confie ce mandat à d'autres membres que le Président, le nombre de ceux-ci choisis parmi les commissaires désignés par l'un des deux Gouvernements sera égal à celui des commissaires nommés par l'autre.

ART. 8. Les Hautes Parties Contractantes s'engagent à fournir à la Commission toutes informations utiles en vue de l'enquête et de l'élaboration du rapport, et à lui faciliter à tous égards l'accomplissement de sa tâche.

ART. 9. Les Parties ont le droit de se faire représenter auprès de la Commission par des agents.

ART. 10. Le Président de la Commission pourra poser des questions aux Parties. En cas de refus d'une partie de répondre, il en sera pris acte.

ART. 11. Les débats devant la Commission ne seront publics que

ART. 6. The Commission shall also be able on its own initiative to offer its services with a view to the opening of proceedings of enquiry. Its decision on the matter is valid only if unanimous. It shall be communicated to the two Parties. It shall be void if neither of the Parties submits the dispute to the Commission as a result of such decision.

ART. 7. The Commission shall meet at the place fixed by its President. Nevertheless should it think it necessary, in view either of a visit to the spot or of other considerations likely to assist the enquiry, it may transfer part of its work to a place other than that at which it has met. It shall likewise be allowed to instruct its President or certain of its members to carry out part of the enquiry elsewhere. Should these instructions be given to members other than the President, the number of those chosen from among the Commissioners designated by one of the two Governments shall be equal to that of the Commissioners nominated by the other.

ART. 8. The High Contracting Parties undertake to supply the Commission with all information which may be of value to it, in connection with the enquiry and the drawing up of its report, and to facilitate the accomplishment of its task in every way.

ART. 9. The Parties shall have the right to send representatives to the Commission.

ART. 10. The President of the Commission shall be able to question the Parties. Should one Party refuse to reply, it shall be placed on record.

ART. 11. Proceedings before the Commission shall only be public if

si les Parties en conviennent et si la Commission y donne son assentiment.

ART. 12. La Commission fera un rapport sur chaque différend qui lui aura été soumis. Elle présentera le différend soumis à l'enquête de la Commission une fois que son rapport a été présenté, en observant toutefois les dispositions du Pacte de la Société des Nations.

ART. 13. Les Hautes Parties Contractantes se réservent pleine liberté d'action en ce qui concerne le différend soumis à l'enquête de la Commission une fois que son rapport a été présenté, en observant toutefois les dispositions du Pacte de la Société des Nations.

ART. 14. Sous réserve de la disposition de l'article 6, les conclusions de la Commission seront prises à la majorité. Chaque membre aura une voix, celle du Président étant prépondérante en cas de partage.

L'avis motivé des membres restés en minorité sera consigné dans le rapport.

ART. 15. Les rapports de la Commission seront signés par le Président et devront être remis sans délai aux Parties et au Secrétariat Permanent de la Société des Nations.

ART. 16. Sauf convention des Parties prolongeant ce délai, la Commission devra avoir achevé ses travaux dans les quatre mois à dater du jour où son Président aura reçu l'avis prévu à l'article 5.

ART. 17. Avant le règlement d'un différend, le rapport de la Commission ne pourra être publié par l'une des Parties qu'avec l'assentiment de la Partie adverse. En cas de raisons spéciales, et même à défaut de toute convention des

the Parties agree thereto, and if the Commission consents.

ART. 12. The Commission shall render a report on each dispute which has been submitted to it. It shall likewise submit, if necessary, a scheme for the settlement of the dispute.

ART. 13. The High Contracting Parties reserve full liberty of action as far as concerns the dispute submitted to the Commission for enquiry, once its report has been presented, but the provisions of the Covenant of the League of Nations shall always be adhered to.

ART. 14. Save as provided in Article 6, the decisions of the Commission shall be taken by a majority. Every member shall have one vote, the President having a casting vote in case of a tie. The opinion of the minority of the members, with their reasons, shall be put on record in the report.

ART. 15. The reports of the Commission shall be signed by the President, and shall be communicated without delay to the Parties and to the permanent Secretariat of the League of Nations.

ART. 16. In the absence of any Convention between the Parties extending this period, the Commission shall complete its task within four months dating from the day when the President shall have received the notice provided for in Article 5.

ART. 17. Before the settlement of a dispute, the report of the Commission shall only be published by one of the Parties provided that the opposing Party consents thereto. In the case of special circumstances, however, even if there should be no

Parties, il sera, par contre, loisible à la Commission d'ordonner la publication immédiate de son rapport.

ART. 18. Chacune des Parties indemniserà les membres de la Commission nommés par elle et fournira la moitié de l'indemnité du Président.

Les Parties devront chercher à s'entendre pour que, des deux côtés, les indemnités des membres de la Commission soient fixées au même chiffre.

En outre, chaque Partie supportera ses propres frais de procédure et la moitié de ceux que la Commission déclarera frais communs.

ART. 19. La présente convention sera ratifiée et les ratifications seront échangées à Stockholm aussitôt que faire se pourra. Elle entrera en vigueur immédiatement après l'échange des ratifications. Elle aura une durée de cinq années à dater de l'échange des ratifications. Si elle n'a pas été dénoncée six mois au moins avant l'expiration de ce délai, elle restera en vigueur pendant une nouvelle période de cinq ans et sera ainsi de suite censée renouvelée chaque fois pour cinq ans, sauf dénonciation six mois au moins avant l'expiration de la précédente période de cinq ans.

En foi de quoi les plénipotentiaires respectifs ont signé le présent traité et y ont apposé leurs cachets.

Fait à Stockholm le 26 mars de l'an mille neuf cent vingt.

Erik Palmstierna  
Agustin Edwards

Convention whatever between the Parties, the Commission shall be free to order the immediate publication of its report.

ART. 18. Each of the Parties shall pay the salaries of the members of the Commission appointed by them, and provide half the President's salary.

The Parties shall endeavour to come to an understanding, in order that the salaries of the members of the Commission on both sides shall be fixed at the same figure. Furthermore, each Party shall pay their own costs of proceedings, and half of those that the Commission shall declare to be joint charges.

ART. 19. The present Convention shall be ratified and the ratifications shall be exchanged at Stockholm as soon as possible. It shall enter into force immediately after the exchange of ratifications. It shall have a duration of five years, dating from the exchange of ratifications. If it has not been denounced at least six months before the end of this period, it shall remain in force during a new period of five years, and shall thus be considered as renewed each time for five years unless it is denounced at least six months before the end of the preceding period of five years.

In faith whereof the Plenipotentiaries on both sides have signed this present Treaty and have thereto set their seal.

Done at Stockholm, March 26, 1920.

Erik Palmstierna  
Agustin Edwards

PERMANENT COMMISSION OF CONCILIATION<sup>1</sup>

(Appointed November 3, 1921)

*President appointed by both Parties*JONKHEER VAN KARNEBEEK, former Minister for Foreign Affairs of the Netherlands. (*Dutch.*)*Members appointed by Chile*RICARDO MONTANER BELLO, Professor at the University of Santiago de Chile. (*Chilean.*)RODRIGO OCTAVIO, Consultor General of Brazil. (*Brazilian.*)*Members appointed by Sweden*JOHANNES HELLNER, former Judge of the Supreme Court of Sweden, former Minister for Foreign Affairs of Sweden. (*Swedish.*)FREDRIK V. N. BEICHMANN, President of the Court of Appeal at Trondhjem, Deputy Judge of the Permanent Court of International Justice. (*Norwegian.*)

## No. 6

## ECUADOR-VENEZUELA: TREATY OF ARBITRATION

Signed at Quito May 24, 1921; ratifications exchanged March 16, 1923.

Original text from Venezuela, *Tratados Públicos y Acuerdos Internacionales, 1920-1925*, III, 7-8; English translation from *British and Foreign State Papers*, CXVIII, 196-197.*(Translation)*

El Gobierno de los Estados Unidos de Venezuela y el de la República del Ecuador, con el propósito de mantener en todo tiempo las relaciones de amistad nunca interrumpidas entre las dos Repúblicas hermanas, y como un nuevo homenaje a la memoria de sus Libertadores en el nonagésimo noveno aniversario de la victoria de Pichincha, tienen a bien establecer como medios pacíficos de resolver las controversias que en lo futuro pudieran suscitarse, los que se determinan en este Tratado solemne, que, con los poderes necesarios, celebran, a nombre del Gobierno de los Estados Unidos de Venezuela,

The Government of the United States of Venezuela and that of Ecuador, with the intention of maintaining for all time the relations of friendship which have never been interrupted between the two sister republics, and as a fresh homage to the memory of their liberators on the 99th anniversary of the victory of Pichincha, desire to establish means for the pacific settlement of disputes that may arise between them defined in the solemn Treaty which, in the name of the Government of the United States of Venezuela, Don Julio A. Michelena, Chargé d'Affaires *ad interim* to the Ecuadorian

<sup>1</sup> Concerning the appointment of the Commissioners after the period provided for in the treaty, see exchange of notes between Sweden and Uruguay in League of Nations, *Treaty Series*, XI, 390.

el Honorable Señor Don Julio A. Michelena, Encargado de Negocios *ad-interim* ante el Gobierno ecuatoriano, y, en representación del Gobierno del Ecuador, el Excelentísimo Señor Doctor Don N. Clemente Ponce, Ministro de Relaciones Exteriores.

ARTÍCULO I. En el muy improbable caso de que se suscitare alguna cuestión entre las dos Altas Partes contratantes, éstas agotarán los medios que las circunstancias les sugieran para arreglarse directamente por medio de sus Agentes Diplomáticos; y si esto no fuere posible, someterán la controversia a la resolución de uno o más árbitros nombrados por ellas, conforme a las estipulaciones que se expresan en los artículos siguientes:

ART. II. No será obligatorio el arbitraje pactado en el artículo precedente para la resolución de las cuestiones que afecten la independencia, el honor nacional o los intereses vitales de las Altas Partes contratantes, o de una de ellas.

ART. III. En ningún caso se considerarán comprendidas en la excepción establecida en el artículo II:

Las reclamaciones pecuniarias;

Las controversias relativas a la interpretación y aplicación de pactos que se refieran a materias de orden exclusivamente jurídico, administrativo, económico, de comercio o de navegación; y

Las originadas de denegación de justicia.

ART. IV. En cada caso particular, las Altas Partes contratantes firmarán un compromiso especial en que se haga el nombramiento del árbitro o árbitros, se determine la materia del litigio, y el procedimiento que haya de seguirse en el juicio arbitral.

Government, and representing the Ecuadorian Government, His Excellency Dr. Don N. Clemente Ponce, Minister for Foreign Affairs, conclude with the necessary Powers.

ARTICLE I. In the very improbable case of any question arising between the two High Contracting Parties they shall exhaust the means which circumstances may suggest of direct settlement through their diplomatic agents; and, if this be not possible, they shall submit the controversy for settlement by one or more arbitrators, appointed by them in accordance with the stipulations laid down in the following Articles.

ART. II. Arbitration agreed upon in the preceding Article shall not be obligatory for the settlement of questions affecting the independence, national honour or vital interests of the High Contracting Parties or one of them.

ART. III. In no case shall be considered as included in the exceptions established by Article II:

Pecuniary claims;

Disputes relative to the interpretation and application of Agreements referring to matters exclusively of juridical, administrative, economic and commercial order, or relating to navigation; and

Those arising out of a denial of justice.

ART. IV. In each individual case the High Contracting Parties shall sign a special Agreement appointing an arbitrator or arbitrators, defining the matter in dispute and the procedure to be followed in arbitrating upon it.

ART. V. Si las Altas Partes contratantes no se acordaren en el nombramiento de un solo árbitro, el Tribunal deberá componerse de tres: uno nombrado por cada parte, y el tercero por el Presidente de la República del Brasil.

ART. VI. Si las Altas Partes contratantes no determinaren en el compromiso especial la materia del litigio y el procedimiento que en el juicio haya de seguirse, el árbitro o árbitros nombrados juzgarán teniendo por base las demandas que se les presentaren, y establecerán el procedimiento que tuvieran a bien.

ART. VII. No podrán ser nombrados árbitros los venezolanos, ni los ecuatorianos, ni los extranjeros domiciliados o residentes en Venezuela o en el Ecuador.

Tan pronto como fuere posible se canjearán en Caracas o en Quito, las ratificaciones de este Tratado, que firman y sellan, por duplicado, los mencionados Encargado de Negocios de los Estados Unidos de Venezuela y el Ministro de Relaciones Exteriores del Ecuador, en la ciudad de Quito, a los veinte y cuatro días del mes de mayo de mil novecientos veinte y uno, aniversario nonagésimo noveno de la victoria de Pichincha.

J. A. Michelena  
N. Clemente Ponce

ART. V. If the High Contracting Parties do not agree on the appointment of a single arbitrator, the Tribunal shall be composed of three, one appointed by each party and the third by the President of the Republic of Brazil.

ART. VI. If the High Contracting Parties do not in the special Agreement clearly define the matter in dispute and the procedure to be followed in arbitrating upon it, the arbitrator or arbitrators appointed shall give a decision based on the pleas presented, and shall establish such procedure as they may consider proper.

ART. VII. Neither Venezuelans nor Ecuadorians, nor foreigners domiciled or residing in Venezuela or in Ecuador, may be appointed arbitrators.

Ratifications of this Treaty, signed and sealed in duplicate by the aforesaid Chargé d'Affaires of Venezuela and the Minister for Foreign Affairs of Ecuador, in the City of Quito, on the 24th day of May, 1921, 99th anniversary of the victory of Pichincha, shall be exchanged at Caracas or at Quito as soon as possible.

J. A. Michelena  
N. Clemente Ponce

## No. 7

GERMANY-SWITZERLAND: TREATY OF CONCILIATION,  
ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Berne December 3, 1921; ratifications exchanged April 25, 1922.

Original text from Switzerland, *Eidgenössische Gesetzsammlung*, XXXVIII, 1922, No. 15; <sup>1</sup> English translation from League of Nations, *Treaty Series*, XII, 281-293.

(Translation)

Die schweizerische Eidgenossenschaft und das Deutsche Reich gewillt, gegenseitig ihre Unabhängigkeit und die Unversehrtheit ihres Gebietes unverbrüchlich zu achten, gewillt, die seit Jahrhunderten zwischen dem Schweizervolk und dem deutschen Volke unverletzt erhaltenen friedlichen und freundschaftlichen Beziehungen zu festigen und zu fördern,

gewillt, dem Grundsatz richterlicher Entscheidung zwischenstaatlicher Streitigkeiten in dem Verhältnis beider Staaten weiteste Geltung zu verschaffen,

überzeugt, dass in Streitfällen, die ihrem Wesen nach sich zur Entscheidung durch Richterspruch nicht eignen, der Rat unparteiischer Vertrauensmänner in jedem Falle Gewähr für eine friedliche Beilegung der Streitigkeit bietet, sind übereingekommen, einen allgemeinen Schiedsgerichts- und Vergleichsvertrag abzuschliessen.

Zu diesem Zwecke haben zu Bevollmächtigten ernannt

Der Schweizerische Bundesrat:

Herrn Professor Dr. Max Huber,

Der Präsident des Deutschen

Reiches:

den Justitiar im Auswärtigen

Amte Herrn Wirklichen Legationsrat Dr. Friedrich Gaus,

The Swiss Confederation and the German Reich, resolved to respect mutually and inviolably their independence and the integrity of their territories;

Resolved to strengthen and develop the peaceful and amicable relations which have existed for centuries between the Swiss nation and the German nation;

Resolved, in the relations between the two States, to give the widest possible application to the principle of the settlement of international disputes by arbitration;

And convinced that, in differences which by their nature do not allow of a solution by arbitration, recourse to trustworthy persons of known impartiality offers in all cases a guarantee of a pacific settlement;

Have decided to conclude a general Treaty of Arbitration and Conciliation and have for this purpose appointed as their plenipotentiaries:

For the Swiss Federal Council:

Professor Max Huber;

For the President of the German Reich:

Dr. Friedrich Gaus, Councillor of Legation, Legal Adviser to the Ministry of Foreign Affairs.

die, nachdem sie ihre Vollmachten geprüft und in guter und gehöriger Form befunden haben, über folgende Bestimmungen übereingekommen sind:

ARTIKEL 1. Die vertragschliessenden Teile verpflichten sich, alle Streitigkeiten irgendwelcher Art, die zwischen ihnen entstehen und nicht in angemessener Frist auf diplomatischem Wege geschlichtet werden können, nach Massgabe des gegenwärtigen Vertrages entweder einem Schiedsgerichtsverfahren oder einem Vergleichsverfahren zu unterwerfen.

Streitigkeiten, für deren Schlichtung die vertragschliessenden Teile durch andere zwischen ihnen bestehende Abmachungen an ein besonderes Verfahren gebunden sind, werden nach Massgabe der Bestimmungen dieser Abmachungen behandelt.

ART. 2. Dem Schiedsgerichtsverfahren werden auf Verlangen einer Partei, unter Vorbehalt der Bestimmungen der Artikel 3 und 4, diejenigen Streitigkeiten unterworfen, die betreffen

erstens: Bestand, Auslegung und Anwendung eines zwischen den beiden Parteien geschlossenen Staatsvertrages;

zweitens: irgend eine Frage des internationalen Rechtes;

drittens: das Bestehen einer Tatsache, die, wenn sie erwiesen wird, die Verletzung einer zwischenstaatlichen Verpflichtung bedeutet;

viertens: Umfang und Art der Wiedergutmachung im Falle einer solchen Verletzung.

Bestehen zwischen den Parteien Meinungsverschiedenheiten darüber, ob eine Streitigkeit zu den vorstehend bezeichneten Arten gehört, so wird über diese Vorfrage im Schiedsgerichtsverfahren entschieden.

Who, after communication of their full powers, found in good and due form, have agreed to the following provisions:

ARTICLE 1. The Contracting Parties undertake to refer to the procedure of arbitration or conciliation disputes of any nature whatsoever which may arise between them and which it has not been possible to settle, within a reasonable period, by diplomatic means.

Disputes for the solution of which a special procedure has been laid down in other Conventions in force between the Contracting Parties, shall be settled in accordance with the provisions of such Conventions.

ART. 2. At the request of one of the Parties, disputes regarding the following subjects shall, unless otherwise provided for in Articles 3 and 4, be submitted to arbitration:

Firstly, the contents, interpretation and application of any treaty concluded between the two Parties;

Secondly, any point of international law;

Thirdly, the existence of any fact which, if established, would constitute a violation of an international engagement;

Fourthly, the extent and nature of the reparation due for such violation.

In case of disagreement as to whether the dispute falls under one of the above categories, this preliminary question shall be referred to arbitration.



ART. 3. Bei Fragen, die gemäss den Landesgesetzen der Partei, gegen die ein Begehren geltend gemacht wird, von richterlichen Behörden, mit Einschluss der Verwaltungsgerichte, zu entscheiden sind, kann diese Partei verlangen, dass die Streitigkeit dem Schiedsgerichtsverfahren erst unterworfen werde, nachdem in dem Gerichtsverfahren eine endgültige Entscheidung gefällt worden ist, und dass die Anrufung des Schiedsgerichts spätestens sechs Monate nach dieser Entscheidung erfolge. Dies gilt nicht, wenn es sich um einen Fall von Rechtsverweigerung handelt und die gesetzlich vorgesehenen Beschwerdestellen angerufen worden sind.

Entsteht zwischen den Parteien eine Meinungsverschiedenheit über die Anwendung der vorstehenden Bestimmung, so wird darüber im Schiedsgerichtsverfahren entschieden.

ART. 4. Erhebt eine Partei bei einer Streitigkeit der im Artikel 2 bezeichneten Arten die Einrede, dass es sich um eine Angelegenheit handle, die ihre Unabhängigkeit, die Unversehrtheit ihres Gebietes oder andere höchste Lebensinteressen betreffe, so kommt für die Streitigkeit, falls die andere Partei diese Behauptung als zutreffend anerkennt, nicht das Schiedsgerichts-, sondern das Vergleichsverfahren zur Anwendung. Wird dagegen die Behauptung von der andern Partei nicht als zutreffend anerkannt, so ist darüber im Schiedsgerichtsverfahren zu entscheiden.

In gleicher Weise wird verfahren, wenn bei einer Streitigkeit der im Artikel 2 bezeichneten Arten eine Partei, ohne sich auf ihre Unabhängigkeit, die Unversehrtheit ihres Gebietes oder andere höchste Le-

ART. 3. In regard to questions which, under the national laws of the Party against which an action has been brought, are within the competence of judicial authorities, including administrative tribunals, the defendant Party may require, on the one hand, that the dispute shall not be submitted to arbitral award until a final decision has been pronounced by these judicial authorities and, on the other hand, that the matter shall be brought before the Tribunal not later than six months after the date of such decision. The above provisions shall not apply if justice has been refused and if the matter has been brought before the courts of appeal provided for by law.

In the case of disputes regarding the application of the preceding provision, the Arbitral Tribunal shall decide.

ART. 4. If, in a dispute coming under one of the categories mentioned in Article 2, one of the Parties pleads that the question at issue is one which affects its independence, the integrity of its territory or other vital interests of the highest importance, and if the opposing Party admits that the plea is well founded, the dispute shall not be subject to arbitration, but to the procedure of conciliation. If, however, the plea is not recognised as well founded by the opposing Party, this point shall be settled by means of arbitration.

The above provisions shall apply if, in a dispute coming under one of the categories mentioned in Article 2, one Party, although not pleading its independence, the integrity of its territory, or other vital interests of the highest importance, pleads that the dispute

bensinteressen zu berufen, die Einrede erhebt, dass die Angelegenheit von überwiegend politischer Bedeutung sei und sich deshalb für eine Entscheidung nach ausschliesslich rechtlichen Grundsätzen nicht eigne. Jedoch kann diese Einrede, in Abweichung von der Bestimmung des Artikel 9, vom Schiedsgericht nur einstimmig oder gegen eine einzige abweichende Stimme als begründet anerkannt werden.

Anerkennt das Schiedsgericht die bezeichneten Einreden als begründet, so überweist es die Streitigkeit dem Vergleichsverfahren; sonst entscheidet es selbst darüber.

Eine Partei, die eine der erwähnten Einreden der Gegenpartei nicht als zutreffend anerkennt, kann sich gleichwohl ohne vorherige Herbeiführung einer schiedsgerichtlichen Entscheidung über die Einrede mit der Durchführung des Vergleichsverfahrens einverstanden erklären. Sie kann dabei jedoch den Vorbehalt machen, dass, wenn der Vergleichsvorschlag nicht von beiden Parteien angenommen wird, das Schiedsgericht zur Entscheidung über die Einrede und gegebenenfalls auch über die Streitigkeit selbst angerufen werden kann.

ART. 5. Das Schiedsgericht legt seinen Entscheidungen zugrunde  
erstens: die zwischen den Parteien geltenden Übereinkünfte allgemeiner oder besonderer Art und die sich daraus ergebenden Grundsätze;

zweitens: das internationale Gewohnheitsrecht als Ausdruck einer allgemeinen, als Recht anerkannten Übung;

drittens: die allgemeinen von den Kulturstaaten anerkannten Grundsätze.

Soweit im einzelnen Falle die vorstehend erwähnten Rechtsgrundlagen Lücken aufweisen, ent-

is mainly political and, for this reason, does not allow of a decision based exclusively on legal principles. At the same time, as an exception to the provision laid down in Article 9, the Tribunal can only recognise the validity of this plea if all its members unanimously agree thereto, or if there is only one dissident.

If the Tribunal recognises the validity of such pleas it shall refer the dispute for settlement to the procedure of conciliation. If the contrary is the case, it shall give an award on the dispute itself.

A Party which does not recognise the validity of one of the pleas of exception put forward by the opposing Party, may, nevertheless, without first having recourse to arbitration, agree to the application of the procedure of conciliation. It may, however, stipulate that if the proposal for settlement by conciliation is not accepted by both parties, the Tribunal shall be required to give a decision regarding the plea of exception, and, if necessary, regarding the dispute itself.

ART. 5. The Tribunal shall apply:

Firstly: the conventions in force between the Parties, whether general or special, and the principles of law arising therefrom;

Secondly: international custom as evidence of a general practice accepted as law;

Thirdly: the general principles of law recognised by civilised nations.

If, in a particular case, the legal bases mentioned above are inadequate, the Tribunal shall give an award in accordance with the principles of law which, in its opinion, should govern international law.

scheidet das Schiedsgericht nach den Rechtsgrundsätzen, die nach seiner Ansicht die Regel des internationalen Rechtes sein sollten. Es folgt dabei bewährter Lehre und Rechtsprechung.

Mit Zustimmung beider Parteien kann das Schiedsgericht seine Entscheidung, anstatt sie auf Rechtsgrundsätze zu stützen, nach billigem Ermessen treffen.

ART. 6. Sofern nicht die Parteien im einzelnen Falle eine entgegenstehende Vereinbarung treffen, wird das Schiedsgericht in folgender Weise bestellt.

Die Richter werden auf der Grundlage des Verzeichnisses der Mitglieder des durch das Haager Abkommen zur friedlichen Erledigung internationaler Streitfälle vom 18. Oktober 1907 geschaffenen Ständigen Schiedshofs im Haag gewählt.

Jede Partei ernennt einen Schiedsrichter nach freier Wahl. Gemeinsam berufen die Parteien drei weitere Richter und aus deren Mitte den Obmann. Sofern einer der gemeinsam berufenen Richter nach seiner Wahl die Staatsangehörigkeit einer der beiden Parteien erwirbt, auf deren Gebiete seinen Wohnsitz nimmt oder in deren Dienste tritt, kann jede Partei verlangen, dass er ersetzt werde. Streitigkeiten darüber, ob diese Voraussetzungen zutreffen, werden von den übrigen vier Richtern entschieden, wobei der ältere der gemeinsam berufenen Richter den Vorsitz führt und bei Stimmengleichheit eine doppelte Stimme hat.

Die Wahl der Richter erfolgt von neuem für jeden einzelnen Streitfall. Die vertragschliessenden Teile behalten sich jedoch vor, im gemeinsamen Einverständnis die Wahlen in der Weise vorzunehmen,

For this purpose it shall be guided by decisions sanctioned by legal authorities and by jurisprudence.

If the Parties agree, the Tribunal may, instead of basing its decision on legal principles, give an award in accordance with considerations of equity.

ART. 6. Subject to special agreement to the contrary in each particular case, the Tribunal shall be constituted as follows:

The judges shall be chosen from the list of Members of the Permanent Court of Arbitration established by The Hague Convention, dated October 18, 1907, for the pacific settlement of international disputes.

Each Party shall appoint its own arbiter. The Parties shall jointly nominate three other arbiters, one of whom shall be the umpire. If, after having been appointed, one of the judges jointly elected acquires the nationality of one of the Parties, appoints his domicile in its territory or enters its service, either of the Parties may claim that he be replaced. Any disputes which may arise as to whether either of these conditions exists shall be settled by the other four judges; the eldest of the judges jointly elected shall take the chair in these cases, and if the votes are equally divided, he shall give a casting vote.

For each individual dispute there shall be a fresh election of judges. The Contracting Parties, however, reserve the right to act in concert regarding these elections, so that for a certain class of dispute arising within a fixed period, the same judges shall be seated on the Tribunal.

dass für gewisse Arten von Streitfällen während eines bestimmten Zeitraumes dieselben Richter dem Schiedsgericht angehören.

Mitglieder des Schiedsgerichtes, die aus irgendeinem Grunde ausscheiden, werden in der gleichen Weise ersetzt, wie sie berufen worden sind.

ART. 7. Die vertragschliessenden Teile werden in Ausführung des gegenwärtigen Vertrages in jedem Einzelfall eine besondere Schiedsordnung festsetzen. Darin werden der Streitgegenstand, die etwaigen besonderen Befugnisse des Gerichtes, dessen Zusammensetzung und Sitz, die Höhe des von jeder Partei als Kostenvorschuss zu hinterlegenden Betrages, die hinsichtlich der Form und der Fristen des Verfahrens zu beobachtenden Regeln, sowie die sonst notwendigen Einzelheiten bestimmt.

Meinungsverschiedenheiten über die Bestimmungen der Schiedsordnung werden, vorbehaltlich des Artikel 8, vom Schiedsgericht entschieden.

ART. 8. Kommt zwischen den Parteien nicht binnen sechs Monaten, nachdem die eine der andern das Begehren nach schiedsgerichtlicher Austragung einer Streitigkeit mitgeteilt hat, die Schiedsordnung zu Stande, so kann jede Partei den im Artikel 14 vorgesehenen Ständigen Vergleichsrat zwecks Feststellung der Schiedsordnung anrufen. Dieser hat binnen zwei Monaten nach seiner Anrufung die Schiedsordnung festzusetzen, wobei der Streitgegenstand aus den Anträgen der Parteien ermittelt wird.

Es ist ebenso zu verfahren, wenn eine Partei den von ihr zu ernennenden Richter nicht bezeichnet hat, oder wenn die Parteien in der Bezeichnung der gemeinsam zu

In case of the death of members of the Tribunal, or of their retirement, for any reason whatever, they shall be replaced according to the manner determined for their appointment.

ART. 7. In each individual case the Contracting Parties shall, in pursuance of the present Treaty, draw up an agreement of reference ("compromis"), to determine the subject of the dispute, any special terms of reference which may be accorded to the Tribunal, its composition, the place where it shall meet, the total amount that each Party concerned shall be obliged to deposit in advance to cover expenses, the rules to be observed with regard to the form and time limits of the proceedings, and any other detail that may be considered necessary.

Any disputes arising out of the terms of the agreement of reference, shall, subject to the terms of Article 8, be referred to arbitration.

ART. 8. If the agreement of reference has not been determined within a period of six months after one Party concerned has notified the other of its intention to refer the dispute to arbitration, either Party may request the Permanent Board of Conciliation provided for under Article 14, to establish the agreement of reference. The Permanent Board of Conciliation shall, within two months after having been convened, settle the terms of the agreement of reference abiding by the conclusions of each Party when determining the subject of the dispute.

The same procedure shall apply when one Party has not nominated the arbitrators for whose appoint-

berufenden Richter oder des Obmanns nicht einig sind.

Der Ständige Vergleichsrat ist ferner befugt, bis zur Bestellung des Schiedsgerichtes über jede andere Streitigkeit zu entscheiden, die sich auf die Schiedsordnung bezieht.

ART. 9. Das Schiedsgericht trifft seine Entscheidungen mit Stimmenmehrheit.

ART. 10. Der Schiedsspruch wird Angaben über die Art seiner Ausführung, insbesondere über die dabei zu beobachtenden Fristen, enthalten.

Wird in einem Schiedsspruche festgestellt, dass eine von einem Gericht oder einer andern Behörde einer Partei getroffene Entscheidung oder Verfügung ganz oder teilweise mit dem Völkerrecht in Widerspruch steht, können aber nach dem Verfassungsrechte dieser Partei die Folgen der Entscheidung oder Verfügung durch Verwaltungsmassnahmen nicht oder nicht vollständig beseitigt werden, so ist der verletzten Partei in dem Schiedsspruch auf andere Weise eine angemessene Genugtuung zuzuerkennen.

ART. 11. Unter Vorbehalt anderweitiger Abrede in der Schiedsordnung kann jede Partei bei dem Schiedsgerichte, das den Spruch erlassen hat, die Revision dieses Spruches beantragen. Der Antrag kann nur mit der Ermittlung einer Tatsache begründet werden, die einen entscheidenden Einfluss auf den Spruch auszuüben geeignet gewesen wäre und bei Schluss der Verhandlung dem Schiedsgerichte selbst und der Partei, welche die Revision beantragt hat, ohne ihr Verschulden unbekannt war.

ment it is responsible, or when the Parties concerned cannot agree upon the choice of judges to be jointly appointed, or upon the umpire.

Pending the constitution of the Tribunal, the Permanent Board of Conciliation shall also be competent to give an award upon any other dispute arising out of the agreement of reference.

ART. 9. The decisions of the Tribunal shall be based upon a majority vote.

ART. 10. The arbitration award shall specify the manner in which it is to be carried out, especially as regards the time-limits to be observed.

If in an arbitration award it is proved that a decision or measure of a court of law or other authority of one of the Parties is wholly or in part contrary to international law, and if the constitutional law of that Party does not permit, or only partially permits, the consequences of the decision or measure in question, to be annulled by administrative measures, the arbitration award shall award the injured Party equitable satisfaction of another kind.

ART. 11. Subject to compromissorial clauses to the contrary, either Party may claim a revision of the award by the Tribunal which gave the award. This demand shall only be warranted by the discovery of a fact, which exercises a decisive influence on the award, and which, at the time of the close of the discussion in Court was unknown to the Tribunal itself and to the Party demanding the revision, unless that Party ought to have been aware of it.

Mitglieder des Schiedsgerichtes, die aus irgend einem Grunde für das Revisionsverfahren ausscheiden, werden in der gleichen Weise ersetzt, wie sie berufen worden sind.

Die Frist, innerhalb deren der im Absatz 1 vorgesehene Antrag gestellt werden kann, ist im Schiedssprüche zu bestimmen, sofern dies nicht in der Schiedsordnung geschehen ist.

ART. 12. Alle Streitigkeiten, die zwischen den Parteien über Auslegung und Ausführung des Schiedsspruches entstehen sollten, unterliegen, vorbehaltlich anderweitiger Abrede, der Beurteilung des Schiedsgerichtes, das den Spruch gefällt hat. Dabei findet die Bestimmung des Artikel 11, Abs. 2, entsprechende Anwendung.

ART. 13. Alle Streitigkeiten, die nicht nach den vorhergehenden Artikeln dieses Vertrages dem Schiedsgerichtsverfahren unterworfen werden, sind auf Verlangen einer Partei im Vergleichsverfahren zu behandeln.

Behauptet die andere Partei, dass der im Vergleichsverfahren anhängig gemachte Streitfall vom Schiedsgerichte zu entscheiden sei, so entscheidet dieses zunächst über diese Vorfrage.

Die Regierungen der vertragsschliessenden Teile können im gemeinsamen Einverständnis eine Streitigkeit, für die nach dem gegenwärtigen Verträge das Schiedsgericht angerufen werden kann, endgültig oder unter Vorbehalt der spätern Anrufung des Schiedsgerichtes im Vergleichsverfahren behandeln lassen.

ART. 14. Für das Vergleichsverfahren wird ein Ständiger Vergleichsrat gebildet.

If, for any reason, any Members of the Tribunal do not take part in the revision proceedings, substitutes for them shall be appointed in the manner determined for their own appointment.

The limit of time within which the demand provided for in the first paragraph may be presented, shall be fixed in the arbitral award, unless it has already been fixed in the agreement of reference.

ART. 12. Any dispute arising between the Parties concerned as to the interpretation and execution of the award shall, in the absence of an agreement to the contrary, be submitted to the Tribunal which pronounced it. In the latter case the provision contained in Article 11, paragraph 2, shall also apply.

ART. 13. Any dispute which, under the terms of the present Treaty, cannot be referred to arbitration, shall, at the request of one of the Parties concerned, be submitted to the procedure of conciliation.

If the opposing Party claims that a dispute, for which conciliation procedure has been initiated, should be settled by the Tribunal, the latter shall first pronounce judgment upon this preliminary question.

The Governments of the Contracting Parties shall be entitled to agree that a dispute which, under the terms of the present Treaty, can be settled by arbitration, shall be referred to the conciliation procedure, either without appeal or subject to appeal to the Tribunal.

ART. 14. A Permanent Board of Conciliation shall be constituted for the procedure of conciliation.

Der Ständige Vergleichsrat besteht aus fünf Mitgliedern. Die vertragschliessenden Teile ernennen, jeder für sich, nach freier Wahl je ein Mitglied und berufen die drei übrigen Mitglieder im gemeinsamen Einverständnis. Diese drei Mitglieder sollen nicht Angehörige der vertragschliessenden Staaten sein, noch sollen sie auf deren Gebiet ihren Wohnsitz haben oder in deren Dienste stehen. Aus ihrer Mitte wird der Vorsitzende durch die vertragschliessenden Teile gemeinsam bezeichnet.

Jedem vertragschliessenden Teile steht das Recht zu, jederzeit, sofern nicht ein Verfahren im Gange oder von einer Partei beantragt worden ist, das von ihm ernannte Mitglied abzurufen, und dessen Nachfolger zu bestimmen. Unter den gleichen Voraussetzungen steht es jedem der vertragschliessenden Teile auch frei, die Zustimmung zur Berufung jedes der drei gemeinsam berufenen Mitglieder zurückzuziehen. In diesem Falle muss unverzüglich zur gemeinsamen Berufung eines neuen Mitgliedes geschritten werden.

Während der tatsächlichen Dauer des Verfahrens erhalten die Mitglieder eine Entschädigung, deren Höhe von den Parteien zu vereinbaren ist. Die Kosten des Ständigen Vergleichsrates werden von den beiden Parteien zu gleichen Teilen getragen.

Der Ständige Vergleichsrat wird im Laufe von sechs Monaten nach Austausch der Ratifikationsurkunden dieses Vertrages gebildet. Ausscheidende Mitglieder werden gemäss dem für die erstmalige Wahl massgebenden Verfahren so rasch als möglich ersetzt.

Der Ständige Vergleichsrat bestimmt seinen Sitz. Er kann ihn nach freiem Ermessen verlegen.

Der Ständige Vergleichsrat bil-

The Permanent Board of Conciliation shall consist of five members. The Contracting Parties shall appoint one member each of their own choice, and nominate the other three members by mutual agreement. These three members shall not be nationals of the Contracting Parties, nor shall they be domiciled on their territory, nor employed in their service. The Contracting Parties shall by mutual agreement elect the President from among these three Members.

Either of the Contracting Parties shall at any time, if no procedure is pending or if no procedure has been proposed by one of the Parties, have the right to recall the member appointed by it, and to appoint a successor. In the same circumstances either Contracting Party shall be entitled to withdraw its consent to the appointment of any one of the three Members jointly elected. In that case a new member shall be appointed, without delay, by joint nomination.

While the procedure is actually in progress, the Members shall receive remuneration, the amount of which shall be fixed by the Parties concerned. The expenses of the Permanent Board of Conciliation shall be divided equally between the Contracting Parties.

The Permanent Board of Conciliation shall be constituted in the course of the six months following the exchange of ratifications of the present Treaty. Retiring members shall be replaced as soon as possible in the manner laid down for the first election.

The Permanent Board of Conciliation shall determine its own meeting-place, and shall be at liberty to transfer it.

The Permanent Board of Conciliation shall, if need be, establish a registry. If it appoints nationals of

det nötigenfalls eine Kanzlei. Soweit er in die Kanzlei Angehörige der Parteien beruft, hat er dabei die Parteien gleichmässig zu berücksichtigen.

Wenn die Berufung der gemeinsam zu berufenden Mitglieder nicht innerhalb von sechs Monaten nach dem Austausche der Ratifikationsurkunden oder, im Falle der Ergänzung des Ständigen Vergleichsrates, nicht innerhalb von drei Monaten nach Ausscheiden eines Mitgliedes stattgefunden hat, so finden die Bestimmungen des Artikel 45, Abs. 4 bis 6 des Haager Abkommens zur friedlichen Erledigung internationaler Streitfälle vom 18. Oktober 1907 auf die Wahl der Mitglieder sinngemäss Anwendung.

ART. 15. Dem Ständigen Vergleichsrat liegt ob, einen Bericht zu erstatten, der den Sachverhalt feststellt und Vorschläge für die Beilegung der Streitigkeit enthält.

Der Bericht ist innerhalb von sechs Monaten nach dem Tage zu erstatten, an dem die Streitigkeit dem Ständigen Vergleichsrat unterbreitet wurde, es sei denn, dass die Parteien diese Frist im gemeinsamen Einverständnis verkürzen oder verlängern. Der Bericht soll in drei Ausfertigungen verfasst werden, von denen je eine jeder Partei ausgehändigt, die dritte vom Ständigen Vergleichsrat aufbewahrt wird.

Der Bericht hat weder in Bezug auf die Tatsachen noch in Bezug auf die rechtlichen Ausführungen die Bedeutung einer endgültig bindenden Entscheidung. Jedoch hat sich jede Partei innerhalb einer im Berichte festzusetzenden Frist darüber zu erklären, ob und inwieweit sie die Feststellungen des Berichtes anerkennt und dessen Vorschläge annimmt. Diese Frist darf die

the Contracting Parties to positions in this office, it shall treat both Parties alike.

If the nomination of the members to be appointed in common has not taken place within the six months following the exchange of ratifications, or, in the case of a vacancy on the Permanent Board of Conciliation, within the three months dating from the retirement or death of a member, the provisions of Article 45, paragraphs 4 to 6, of the Hague Convention, dated October 18, 1907, for the Pacific Settlement of International Disputes, shall be applicable by analogy as regards the appointment of members.

ART. 15. The Permanent Board of Conciliation shall draw up a report which shall determine the facts of the case and shall contain proposals for settling the dispute.

The report shall be submitted within six months from the day on which the dispute was laid before the Permanent Board of Conciliation, unless the Parties shall agree to cancel or extend this time-limit. The report shall be drawn up in three copies, one of which shall be handed to each of the Parties and the third preserved in the archives of the Permanent Board of Conciliation.

The report shall not, either as regards statement of facts or as regards legal considerations, be in the nature of a final judgment binding upon the Parties. Each Party shall, however, state, within a time-limit to be fixed by the report, whether and within what limits it recognises the accuracy of the facts noted in the report and accepts the proposals which it contains. The



Zeit von drei Monaten nicht überschreiten.

duration of this time-limit shall not exceed three months.

ART. 16. Der Ständige Vergleichsrat tritt in Wirksamkeit, sobald er von einer Partei angerufen wird. Diese richtet ihr Begehren gleichzeitig an den Vorsitzenden des Ständigen Vergleichsrates und an die andere Partei.

Die vertragschliessenden Teile verpflichten sich, in allen Fällen und in jeder Hinsicht die Arbeiten des Ständigen Vergleichsrates zu fördern und ihm insbesondere durch die zuständigen Behörden jede Rechtshilfe zu gewähren. Der Ständige Vergleichsrat ist berechtigt, im Gebiete der vertragschliessenden Teile nach Massgabe der dort den Gerichten zustehenden Befugnisse Zeugen und Sachverständige vorzuladen und zu vernehmen und Augenschein einzunehmen. Er kann die Beweise entweder in vollständiger Besetzung oder durch eines oder mehrere der gemeinsam berufenen Mitglieder erheben.

ART. 17. Der Ständige Vergleichsrat trifft seine Entschliessungen mit einfacher Stimmenmehrheit. Er ist beschlussfähig, wenn alle Mitglieder ordnungsmässig geladen und mindestens die gemeinsam berufenen Mitglieder anwesend sind.

ART. 18. Der im Schiedsgerichtsverfahren gefällte Spruch ist von den Parteien nach Treu und Glauben zu erfüllen.

Die vertragschliessenden Teile verpflichten sich, während der Dauer des Schiedsgerichts- oder Vergleichsverfahrens nach Möglichkeit jede Massnahme zu ver-

ART. 16. The Permanent Board of Conciliation shall begin work as soon as the question shall have been submitted to it by one of the Parties. That Party shall communicate its request to the President of the Permanent Board of Conciliation and at the same time to the opposing Party.

The Contracting Parties shall undertake to facilitate in all cases and in all respects, the work of the Permanent Board of Conciliation, and in particular, to grant it all legal assistance through the agency of competent authorities. The Permanent Board of Conciliation shall be entitled, within the limits of the competence of the local Courts, to summon and examine witnesses and experts and search premises in the territory of the Contracting Parties. It may draw up the procedure for the taking of evidence at a plenary meeting, or entrust this task to one or several [of the] members chosen by common agreement.

ART. 17. Every decision shall be taken by a majority of the members of the Permanent Board of Conciliation. Its deliberations shall be valid if all the Members have been duly convoked and if all the members elected by common agreement are present at the meeting.

ART. 18. The award pronounced as the result of the procedure of arbitration shall be carried out in good faith by the Parties concerned.

The Contracting Parties shall undertake during the course of the arbitration or conciliation proceedings to refrain as far as possible

These words may have been omitted by oversight. Cf. the German text.

meiden, die auf die Erfüllung des Schiedsspruches oder die Annahme der Vorschläge des Ständigen Vergleichsrates nachteilig zurückwirken könnte. Bei einem Vergleichsverfahren haben sie sich bis zu dem Zeitpunkte, den der Ständige Vergleichsrat für die Annahmeerklärung der Parteien festsetzt, jeder gewaltsamen Selbsthilfe zu enthalten.

Das Schiedsgericht kann auf Verlangen einer Partei vorsorgliche Massnahmen anordnen, soweit diese von den Parteien auf dem Verwaltungswege durchgeführt werden können; ebenso kann der Ständige Vergleichsrat zum gleichen Zwecke Vorschläge machen.

ART. 19. Unter Vorbehalt entgegenstehender Bestimmungen des gegenwärtigen Vertrages oder der Schiedsordnung ist für das Schiedsgerichts- und Vergleichsverfahren das Haager Abkommen zur friedlichen Erledigung internationaler Streitfälle vom 18. Oktober 1907 massgebend.

Soweit der gegenwärtige Vertrag auf die Bestimmungen des Haager Abkommens verweist, finden sie im Verhältnis zwischen den vertragsschliessenden Teilen selbst dann Anwendung, wenn diese oder einer von ihnen von dem Abkommen zurückgetreten sein sollten.

Sofern weder der gegenwärtige Vertrag noch die Schiedsordnung noch die sonst zwischen den vertragsschliessenden Teilen bestehenden Übereinkünfte die Fristen und andere Einzelheiten des Schiedsgerichts- oder Vergleichsverfahrens festlegen, ist das Schiedsgericht oder der Ständige Vergleichsrat selbst befugt, die erforderlichen Bestimmungen zu treffen.

from any action liable to have a prejudicial effect on the execution of the award or on the acceptance of the proposals of the Permanent Board of Conciliation. They shall refrain from any act of a legal nature in connection with the conciliation proceedings until the expiration of the time limit fixed by the Permanent Board of Conciliation for the acceptance of its proposals.

At the request of one of the Parties, the Tribunal may order provisional measures to be taken in so far as the Parties are in a position to secure their execution, through administrative channels; the Permanent Board of Conciliation may also formulate proposals to the same effect.

ART. 19. Subject to the contrary provisions laid down in the present Treaty or the agreement of reference, the procedure of arbitration and conciliation is regulated by the Hague Convention for the pacific settlement of international disputes, of October 18, 1907.

In as far as the present Treaty refers to the stipulations of the Hague Convention, the latter shall continue to be applicable to relations between the Contracting Parties, even if one or both of them denounce the Convention.

The Tribunal or the Permanent Board of Conciliation shall be competent to decide as to the necessary provisions with regard to periods of grace or other details connected with the method of arbitration or conciliation, in so far as neither the present Treaty nor the agreement of reference, nor other Conventions in force between the Parties contain stipulations on these points.

ART 20 Der gegenwärtige Vertrag soll sobald als möglich ratifiziert werden. Die Ratifikationsurkunden sollen in Bern ausgetauscht werden.

Der Vertrag tritt einen Monat nach dem Austausch der Ratifikationsurkunden in Kraft.

Der Vertrag gilt für die Dauer von zehn Jahren. Wird er nicht sechs Monate vor Ablauf dieses Zeitraums gekündigt, so bleibt er für weitere zwei Jahre in Kraft. Das Gleiche gilt, wenn der Vertrag nicht mit der bezeichneten Frist gekündigt wird, für die spätere Zeit.

Ein Schiedsgerichtsverfahren oder ein Vergleichsverfahren, das bei Ablauf des gegenwärtigen Vertrages schwebt, nimmt seinen Lauf nach den Bestimmungen dieses Vertrages oder eines andern Abkommens, das von den vertragsschliessenden Teilen an dessen Stelle vereinbart wird.

Zu Urkund dessen haben die Bevollmächtigten den gegenwärtigen Vertrag unterzeichnet.

Ausgefertigt in doppelter Urschrift in Bern am 3. Dezember 1921 (dritten Dezember eintausendneunhundertundzwanzig).

Max Huber  
Gaus

ART 20 The present Treaty shall be ratified<sup>1</sup> as soon as possible. The instruments of ratification shall be exchanged at Berne.

The Treaty shall come into force one month after the exchange of ratifications.

It is valid for a period of ten years. If, however, it is not denounced six months before the expiration of this period it shall remain in force for a further period of two years, and so on, as long as it has not been denounced within the prescribed period.

If a dispute which has been referred to arbitration or conciliation has not been settled when the present Treaty expires, the case shall be proceeded with according to the stipulations of the Treaty or of any other Convention which the Contracting Parties may agree to substitute therefor.

In witness whereof, the Plenipotentiaries have signed the present Treaty.

Done in duplicate at Berne on December 3, 1921 (December third, nineteen hundred and twenty one).

Max Huber  
Gaus

#### FINAL PROTOCOL

(1) Die vertragsschliessenden Teile gehen von der Ansicht aus, dass die einzelnen Bestimmungen des Vertrages im Zweifel zu Gunsten der Anwendung des Grundsatzes der schiedsgerichtlichen Erledigung von Streitigkeiten auszulegen sind. Insbesondere erklären die vertragsschliessenden Teile, dass gewöhnliche Grenzstreitigkeiten nicht als

(1) The Contracting Parties are agreed that in doubtful cases the stipulations of the present Treaty shall be interpreted in favour of the application of the principle of settlement of disputes by arbitration. In particular, the Contracting Parties declare that ordinary frontier disputes shall not be considered as disputes affecting their territorial

<sup>1</sup> Here we have corrected the League of Nations translation by substituting 'be ratified' for 'come into force'.

Angelegenheiten anzusehen sind, die im Sinne von Art. 4 des Vertrages die Unversehrtheit des Gebietes betreffen.

(2) Die vertragschliessenden Teile erklären, dass der Vertrag auch dann Anwendung findet, wenn eine Streitigkeit in Ereignissen ihren Ursprung hat, die zeitlich vor seinem Abschlusse liegen. Etwaige mit Ereignissen des Weltkrieges in unmittelbarem Zusammenhang stehende Streitigkeiten werden jedoch mit Rücksicht auf ihre allgemeine politische Bedeutung hiervon ausgeschlossen.

(3) Die Tatsache, dass an einer Streitigkeit dritte Staaten beteiligt sind, schliesst die Anwendung des Vertrages nicht aus. Die vertragschliessenden Teile werden gegebenenfalls dahin wirken, die dritten Staaten zum Anschluss an das Schiedsgerichts oder Vergleichsverfahren zu veranlassen. Für diesen Fall bleibt es den beiderseitigen Regierungen vorbehalten, im gemeinsamen Einverständnis eine besondere Zusammensetzung des Schiedsgerichts oder des Ständigen Vergleichsrates vorzusehen. Kann eine Verständigung mit den dritten Staaten über deren Anschluss nicht binnen angemessener Frist herbeigeführt werden, so nimmt das Verfahren zwischen den vertragschliessenden Teilen den im Vertrage vorgesehenen Verlauf.

(4) Die vertragschliessenden Teile erklären, dass Streitigkeiten zwischen Deutschland und einem dritten Staat, an denen die Schweiz in ihrer Eigenschaft als Mitglied des Völkerbundes beteiligt werden könnte, nicht als Streitigkeiten zwischen den vertragschliessenden Teilen im Sinne des Vertrages angesehen werden können.

integrity in the sense provided in Article 4 of the Treaty.

(2) The Contracting Parties declare that the Treaty shall apply equally to disputes arising out of events which occurred prior to its conclusion. In consideration of their general political bearing, an exception shall, however, be made with regard to disputes arising directly out of the world-war.

(3) The Treaty shall not cease to be applicable if a third State is concerned in a dispute. The Contracting Parties shall endeavour, if necessary, to induce the third State to agree to refer the dispute to arbitration or conciliation. In this case the two Governments may, if they so desire, jointly provide that the Tribunal or the Permanent Board of Conciliation shall be composed of members specially chosen for the case. If no agreement is reached with the third State within a reasonable period, the Contracting Parties shall proceed with the case in accordance with the provisions of the Treaty.

(4) The Contracting Parties declare that disputes between Germany and a Third State, in which Switzerland might be interested as a Member of the League of Nations, cannot be considered as disputes between the Contracting Parties in the sense intended by the present Treaty.

Berne, December 3, 1921.

Bern, den 3. Dezember 1921.

Max Huber  
Gaus

Max Huber  
Gaus

## AMENDMENT OF THE TREATY

Protocol signed at Berne August 29, 1928; ratifications exchanged June 13, 1929.

Original text from Switzerland, *Botschaft des Bundesrates*, December 14, 1928; English translation by a translator of the Secretariat of the League of Nations.

(Translation)

Die unterzeichneten Bevollmächtigten der Schweizerischen Eidgenossenschaft und des Deutschen Reichs haben, in der Absicht, den zwischen der Schweiz und Deutschland abgeschlossenen Schiedsgerichts- und Vergleichsvertrag vom 3. Dezember 1921 mit Rücksicht auf die von der Schweiz und Deutschland zum Artikel 36, Absatz 2, des Statuts des Ständigen Internationalen Gerichtshofes im Haag abgegebenen Erklärungen abzuändern, folgendes vereinbart:

ARTIKEL 1. Der Artikel 4 des Vertrages vom 3. Dezember 1921 wird aufgehoben; dem gemäss werden im Artikel 2 die Worte "unter Vorbehalt der Bestimmungen der Artikel 3 und 4" durch: "unter Vorbehalt der Bestimmungen des Artikels 3" ersetzt.

ART. 2. Der Artikel 8 des Vertrags vom 3. Dezember 1921 wird durch folgende Bestimmung ersetzt: "Kommt zwischen den Parteien nicht binnen zwei Monaten, nachdem die eine der andern das Begehren nach schiedsgerichtlicher Austragung einer Streitigkeit mitgeteilt hat, die Schiedsordnung zustande, oder wird das Schiedsgericht innerhalb der gleichen Frist nicht bestellt, so kann jede Partei die Streitigkeit beim Ständigen Internationalen Gerichtshof im Haag unmittelbar anhängig machen."

Zu Urkund dessen haben die unterzeichneten Bevollmächtigten

With the object of amending the Arbitration and Conciliation Treaty concluded on December 3rd, 1921, between Switzerland and Germany with reference to the declarations made by Switzerland and Germany in connexion with Article 36, paragraph 2, of the Statute of the Permanent Court of International Justice at the Hague, the undersigned Plenipotentiaries of the Swiss Confederation and the German Reich have agreed as follows:

ARTICLE 1. Article 4 of the Treaty of December 3rd shall be annulled; and consequentially the words "unless otherwise provided for in Articles 3 and 4" shall be replaced by the words "unless otherwise provided for in Article 3."

ART. 2. Article 8 of the Treaty of December 3rd, 1921, shall be replaced by the following clause: "If the arbitration agreement is not reached between the Parties within two months after one of the Parties has informed the other of its desire for the settlement of a dispute by arbitration, or if the court of arbitration has not been constituted within that period, either Party may submit the dispute direct to the Permanent Court of International Justice at the Hague."

In witness whereof the undersigned Plenipotentiaries have drawn

dieses Protokoll aufgesetzt, das ratifiziert werden soll und am Tage des Austausches der Ratifikationsurkunden in Kraft treten wird.

Geschehen in Bern, in doppelter Ausfertigung, den neunundzwanzigsten August eintausendneunhundertundachtundzwanzig.

Motta  
Müller

up this Protocol, which shall be ratified and shall come into force on the day of the exchange of ratifications.

Done at Berne in duplicate this twenty-ninth day of August one thousand nine hundred and twenty-eight.

Motta  
Müller

#### PERMANENT COMMISSION OF CONCILIATION

##### *President appointed by both Parties*

KNUT H. L. HAMMARSKJÖLD, former Prime Minister of Sweden. (*Swedish.*)

##### *Members appointed by both Parties*

JONKHEER W. J. M. VAN EYSINGA, Professor at the University of Leyden. (*Dutch.*)

ERIC DE SCAVENIUS, former Danish Minister. (*Danish.*)

##### *Member appointed by Germany*

HERMANN DIETRICH, former Minister of Baden. (*German.*)

##### *Member appointed by Switzerland*

OSCAR WETTSTEIN, Member of the Swiss Council of States. (*Swiss.*)

## No. 8

### SPAIN-URUGUAY: TREATY OF ARBITRATION

Signed at Madrid March 23, 1922; ratifications exchanged January 24, 1927.

Original text communicated by the Spanish Embassy at Washington, D. C.; English translation from League of Nations, *Treaty Series*, LXIII, 236-238.

#### *(Translation)*

Su Majestad el Rey de España y el Excmo. Señor Presidente de la República Oriental del Uruguay para confirmar la amistad cordial y la recíproca alta consideración entre ambas naciones en un acto que corresponda igualmente al progreso en el orden jurídico y al espíritu de las relaciones internacionales en el momento actual, han acordado celebrar un Tratado de arbitraje más amplio y completo que el existente entre ellas desde 1902 y compatible con el Estatuto de la

His Excellency the President of the Oriental Republic of Uruguay and His Majesty the King of Spain, desirous of strengthening the cordial amity and the high mutual consideration between the two nations by an act consonant both with the progress of law and with the spirit now prevailing in international relations, have resolved to conclude a Treaty of Arbitration which shall be fuller and more comprehensive than that in force between them since 1902, and which

Corte Permanente de Justicia Internacional, instituida por la Sociedad de las Naciones, de que son también signatarias.

Para ese efecto, S. M. el Rey de España ha designado al Excelentísimo Sr. D. Joaquín Fernández Prada, Su Ministro de Estado, Senador del Reino, Caballero Gran Cruz de la Orden de Leopoldo II de Bélgica.

El Excmo. Señor Presidente de la República Oriental del Uruguay al Excmo. Sr. D. Benjamín Fernández y Medina, Ministro Plenipotenciario de la misma en esta Corte, Caballero Gran Cruz de la Real Orden de Isabel la Católica.

Quienes después de haber canjeado sus plenos poderes, hallados en buena y debida forma, han convalidado en lo siguiente:

ARTÍCULO I. Las Altas Partes contratantes se obligan a someter a juicio arbitral todas las controversias de cualquier naturaleza que por cualquier causa surgieren entre ellas, siempre que no puedan ser resueltas por negociación directa.

ART. II. No pueden renovarse en virtud de este Tratado las cuestiones que hayan sido objeto de arreglos definitivos entre ambas Altas Partes. En tal caso el arbitraje se limitará exclusivamente a las cuestiones que se susciten sobre validez, interpretación y cumplimiento de dichos arreglos.

ART. III. Para la decisión de las cuestiones que en cumplimiento de este Tratado se sometieren a arbitraje, las funciones de árbitro serán encomendadas con preferencia a un Jefe de Estado de una de las Repúblicas hispanoamericanas o Presidente de una Corte o Tribunal

shall be compatible with the Statute of the Permanent Court of International Justice established by the League of Nations, whereof they are also signatories.

For this purpose His Excellency the President of the Oriental Republic of Uruguay has appointed:

His Excellency M. Benjamín Fernández y Medina, Minister Plenipotentiary of the Republic at the Court of Madrid, Knight Grand Cross of the Order of Isabella the Catholic, and

His Majesty the King of Spain has appointed:

His Excellency M. Joaquín Fernández Prada, His Minister of State, Senator of the Kingdom, Knight Grand Cross of the Order of Leopold II of Belgium,

Who, having communicated their full powers, found in good and due form, have agreed as follows:

ARTICLE I. The High Contracting Parties undertake to submit to arbitration all disputes of whatever nature which may arise between them from whatever cause, if such disputes cannot be settled by direct negotiation.

ART. II. Questions which have been dealt with by definitive agreements between the two High Contracting Parties may not be reopened in virtue of the present Treaty. In such cases, arbitration shall only be applied to questions which may arise as to the validity, interpretation or execution of the said agreements.

ART. III. For the settlement of questions to be submitted to arbitration under this Treaty, the duties of arbitrator shall be entrusted preferably to the Head of the State of one of the Spanish-American Republics or to the President of a Spanish-American Supreme Tri-

Superior de Justicia hispanoamericano y en su defecto a un Tribunal formado por Jueces y peritos españoles, uruguayos o hispanoamericanos.

ART. IV. En cada caso particular, las Altas Partes contratantes firmarán un compromiso especial, que determine el árbitro nombrado, el alcance de los poderes de éste, la materia del litigio, los plazos, gastos y procedimientos que se fijaren.

ART. V. A no ser que se trate de un caso de denegación de justicia al artículo I de este Tratado, no será aplicable a las cuestiones que se suscitaren entre un ciudadano de una de las Altas Partes contratantes y el otro Estado, cuando los Jueces o Tribunales de este último Estado tengan, según su legislación, competencia para juzgar la referida cuestión. Sin embargo, podrá ser motivo de arbitraje el determinar si se trata o no de un caso de denegación de justicia.

ART. VI. El presente Tratado permanecerá en vigor durante diez años, contados desde la fecha del canje de sus ratificaciones.

En caso de que, doce meses antes de cumplirse dicho término ninguna de las Altas Partes contratantes hubiese declarado su intención de hacer cesar los efectos del presente Tratado, continuará éste siendo obligatorio hasta un año después de que una u otra de las Altas Partes signatarias lo hubiesen denunciado.

ART. VII. Este Tratado será ratificado por las Altas Partes contratantes, según sus respectivas leyes y se canjearán las ratificaciones en Montevideo en el más breve plazo posible.

bunal or Court of Law, or, failing either of the above, to a tribunal composed of Uruguayan, Spanish, or Spanish-American judges and experts.

ART. IV. In each individual case the High Contracting Parties shall sign a special agreement stating the name of the arbitrator selected, the extent of his powers, the subject of the dispute, and the time-limits, costs, and procedure to be fixed.

ART. V. Article I of this Treaty shall not apply to questions, except cases of denial of justice, which may arise between a national of one of the High Contracting Parties and the other State, when the judges or courts of law of the latter are competent under its legislation to deal with the question at issue. Nevertheless, the question whether a case of denial of justice has occurred may be made the subject of arbitration.

ART. VI. The present Treaty shall remain in force for ten years from the date of the exchange of ratifications.

If, twelve months before the end of this period, neither of the High Contracting Parties has announced its intention of ceasing to observe the present Treaty, the latter shall remain binding until one year after its denunciation by either of the High Contracting Parties.

ART. VII. The present Treaty shall be ratified by the High Contracting Parties in accordance with their respective laws, and the ratifications shall be exchanged at Montevideo as soon as possible.



En testimonio de lo cual, los Plenipotenciarios arriba indicados firman el presente Tratado y lo sellan con sus respectivos sellos.

Hecho en dos ejemplares, en castellano, en Madrid a veintitrés de Marzo de mil novecientos veintidós.

Joaquín Fernández Prida  
B. Fernández y Medina

In witness whereof the above-named Plenipotentiaries have signed the present Treaty and have thereto affixed their seals.

Done in duplicate, in Spanish, at Madrid, on March the twenty-third, One thousand nine hundred and twenty-two.

B. Fernández y Medina  
Joaquín Fernández Prida

## No. 9

### COSTA RICA-GUATEMALA-HONDURAS-NICARAGUA-SALVADOR: TREATY OF ARBITRATION

Signed at Washington February 7, 1923.<sup>1</sup>

Original text <sup>2</sup> from *Conference on Central American Affairs*, Washington, Government Printing Office, 1923, pp. 296-338.

The Governments of the Republics of Guatemala, El Salvador, Honduras, Nicaragua and Costa Rica, for the purpose of efficaciously guaranteeing their rights and inalterably maintaining peace and harmony in their relations without being obliged to resort in any case to the employment of force, have agreed to conclude a Convention for the Establishment of an International Central American Tribunal and, to that end, have named as Delegates:

Guatemala: Their Excellencies Señor Don Francisco Sánchez Latour and Señor Licenciado Don Marcial Prem.

El Salvador: Their Excellencies Señor Doctor Don Francisco Martínez Suárez and Señor Doctor Don J. Gustavo Guerrero.

Honduras: Their Excellencies Señor Doctor Don Alberto Uclés, Señor Doctor Don Salvador Córdova and Señor Don Raúl Toledo López.

Nicaragua: Their Excellencies Señor General Don Emiliano Chamorro, Señor Don Adolfo Cárdenas and Señor Doctor Don Máximo H. Zepeda.

Costa Rica: Their Excellencies Señor Licenciado Don Alfredo González Flores and Señor Licenciado Don J. Rafael Oreamuno.

By virtue of the invitation sent to the Government of the United States of America by the Governments of the five Central American Republics, there were present at the deliberations of the Conference, as Delegates from the Government of the United States of America, The Honorable Charles E. Hughes, Secretary of State of the United States of America and The Honorable Sumner Welles, Envoy Extraordinary and Minister Plenipotentiary.

After having communicated to one another their respective full powers, which were found to be in due form, the Delegates of the five Central American Powers assembled in the Conference on Central American

<sup>1</sup> Costa Rica ratified November 24, 1924, and Nicaragua March 15, 1923.

<sup>2</sup> The Spanish text is also authentic.

Affairs at Washington, have agreed to carry out the said proposal in the following manner:

ARTICLE I. 1. The Contracting Parties agree to submit to the International Tribunal established by the present Convention all controversies or questions which now exist between them or which may hereafter arise, whatever their nature or origin, in the event that they have failed to reach an understanding through diplomatic channels, or have not accepted some other form of arbitration, or have not agreed to submit said questions or controversies to the decision of another tribunal. Nevertheless, the questions or controversies which affect the sovereign and independent existence of any of the signatory Republics cannot be the object of arbitration or complaint.

2. The Parties agree that the decision of the International Tribunal established by the present Convention with regard to the questions submitted to it shall be regarded as final, irrevocable, without appeal, and binding upon the countries submitting disputes, should such decisions be rendered within the time stipulated in the protocol or in the rules of procedure applicable to the case as prescribed in Article XIX. The judgment of the International Tribunal established by the present Convention shall be null and void, and any one of the Parties, which may have an interest in the controversy may refuse to comply with it, in the following cases:

a. When the tribunal shall not have been organized in strict accordance with this Convention.

b. When in summoning the Parties before the Tribunal or in the presentation of evidence, the provisions of this Convention or of the Rules of Procedure contained in Annexes A and B shall not have been observed.

3. The sentence of the Tribunal shall be null and void and open to revision when any of the arbitrators who have sat in judgment on the case fall within any of the disqualifications enumerated in Article XX.

4. The Parties shall likewise have the right to demand the revision of the judgment on the ground of the discovery of a new fact calculated to exercise a decisive influence upon the award and one which was unknown to the Tribunal and to the party which demanded the revision at the time the discussion was closed.

ART. II. The Members of the Tribunal referred to in Article I shall be selected from a permanent list of thirty jurists composed as follows:

Each of the Contracting Parties shall designate six persons; of these six persons, four shall be nationals, and shall be designated by the President of the Republic with the assent of the National Congress or of the Senate, if such exist; the other two shall be chosen by the aforementioned President of the Republic, one from each of the lists submitted by the Government of the United States of America and by that of the respective Latin American nation, as provided in Article III. The names of the persons designated by the Contracting Parties shall be communicated to the Ministry of Foreign Affairs of Honduras by the Government which names them. The Ministry of Foreign Affairs of Honduras shall transmit the complete list to each of the signatory Republics.

Each alteration which may be made in the list of jurists shall be communicated by the respective Government to the Ministry of Foreign

Affairs of Honduras and by this to the Contracting Parties, and to the Governments which may have presented the lists of Candidates.

The term of service of the members of the permanent list of jurists shall be five years, to be counted from the date when their appointment shall have been communicated to the Ministry of Foreign Affairs of Honduras by the respective Government. They may be re-elected, and they shall not be removed except when they cease to meet the conditions required by Articles IV and V. The changes which may occur in the permanent list of jurists by the expiration of the term of service or for any other cause, shall not prevent the Arbitrators who may be forming part of a Tribunal from continuing to discharge their functions in the specific case submitted to them for their consideration until said case shall have been decided.

ART. III. The Contracting Parties shall request the Government of the United States of America to submit to them a list of fifteen jurists for the purposes stated in Article II. For this same object each of the Contracting Parties shall request the Government of the Latin American Republic which each may choose, with the exception of those of Central America, to submit to it another list of five jurists of the nationality of said Latin American Government. These lists shall be submitted to all the Contracting Parties, and each Ministry of Foreign Affairs shall communicate to the Minister for Foreign Affairs of Honduras the names of the jurists chosen by his Government. None of the jurists proposed in the said lists may be nominated by more than one of the Contracting Parties, and in the event that one of them should be selected by two or more of said Parties, preference shall be given to the prior nomination. In such a case the Ministry of Foreign Affairs of Honduras shall inform the respective Governments which appointment is valid and which Government or Governments should make a new appointment. When the Government of Honduras shall have received notification of the nominations made by all the Contracting Parties and shall in its turn have made its appointments, said Government shall directly so advise the same Contracting Parties, as well as the Governments which have submitted the lists.

ART. IV. The four national members of the permanent list of jurists nominated by each Republic shall meet the qualifications required by the laws of each country to be Judge of the Supreme Court, and they shall enjoy the highest reputation, both for their moral qualities and for their professional ability.

ART. V. The jurists included in the lists referred to in Article III shall meet any one of the following requirements:

They must be or have been Heads of States, Cabinet Ministers, members of the highest Court of Justice in their country, or Ambassadors or Ministers Plenipotentiary, provided they are not or have never been accredited to any of the Central American Governments, or members of some International Court of Arbitration, or Permanent International Court, or representatives of their Government before such courts.

The list presented by the Government of the United States of America may contain also the names of counsel who are entitled to practice before [the] Supreme Court of the United States, and of Professors of International Law.

All of the above-mentioned jurists, as well as those named by each country, shall be persons of the highest reputation, both for their moral qualities and for their professional competency.<sup>1</sup>

ART. VI. The Office of Diplomatic Representative to one of the Republics of Central America shall be incompatible with that of Arbitrator, provided said Representative is not a citizen of one of the other Central American Republics. Said disability shall not apply to any other public office whatsoever.

All members of the permanent list shall enjoy the rank, privileges and immunities of Ministers Plenipotentiary in the Contracting Republics, but only from the date of their designation to membership on the Tribunal established by this Convention and until one month after the termination of the sessions of said Tribunal.

ART. VII. Whenever, in conformity with the provisions of Article I, it should become necessary to convene the Tribunal instituted by this Convention to take cognizance of any dispute or disputes which one or more of the Contracting Parties may wish to submit to its decision, the following procedure shall be pursued:

a. The Contracting Party, which may desire to have recourse to the Tribunal, shall advise the Party or Parties with which it proposes to enter into litigation, so that within sixty days following the date when they may have received this notification they should proceed to sign a protocol in which the subject of the disputes or controversies shall be clearly set forth. The protocol shall likewise state the date upon which the Arbitrators must be appointed, and the place where they shall meet, the special powers which may be given to the Tribunal, and any other conditions upon which the Parties may agree.

b. After the protocol shall have been signed, each Party to the Controversy shall select an Arbitrator from the permanent lists of jurists, but it shall not name any of the jurists whom said Party may have included in the afore-mentioned list. Another Arbitrator shall be selected at will and by common accord, by the interested Governments; should the said Governments fail to agree on the selection, the third Arbitrator shall be chosen by the Arbitrators already appointed. If said Arbitrators should also fail to agree, the afore-mentioned third Arbitrator shall be designated by lot, to be drawn by the Arbitrators already appointed. Save in the case of agreement among the interested Governments, the third Arbitrator shall be chosen from the jurists, on the list referred to in Article II, who have not been included in said list by any of the interested Parties. Whenever the third Arbitrator should be chosen by lot, he shall be of a different nationality than that of either of the other two.

Whenever two or more powers in litigation should have a common interest in the controversy, they shall be considered as constituting a single Party in the matter for the purposes of the organization of the Tribunal.

<sup>1</sup> Nicaragua nominated for the Panel of Judges: George Grafton Wilson, Professor at Harvard University (U.S.A.), and Dr. Antonio Urbina (Colombian). Costa Rica nominated Lic. Cleto Gonzales, Octavio Beeche, Luis Castro Ureña, and Carlos María Jiménez (Costa Rican), Dr. James M. Beck (U.S.A.), and Dr. Emilio Bello Codesido (Chilean). No other information concerning the composition of the panel was available.

ART. VIII. Any of the contracting Parties which may believe exhausted the other methods of agreement or adjustment referred to in Article I, for the settlement of any disputes which it may have pending with one or more of the same Contracting Parties, shall so inform said Party or Parties, to the end that within sixty days following the date on which the latter shall have received this notification the respective protocol may be signed. If within this period of time said protocol shall not have been signed, owing to lack of common accord or some other reason, then the same Contracting Party may request the organization of the Tribunal to which this Convention refers, in the following manner:

It shall notify the other Party or Parties of its intention, communicating to them at the same time the name of the arbitrator it has appointed and the place where it desires the Tribunal to sit. The Parties notified, in their turn, shall appoint their arbitrator within thirty days following the receipt of this notification. Should they fail to do so, the appointment shall be made by lot, at the request of the Party seeking the organization of the Tribunal, by any of the Presidents of the Contracting Republics who are not interested in the dispute, within thirty days subsequent to the date upon which the request was received and from among the jurists included in the permanent list, who would be eligible for appointment by the Party itself, if it were to make such appointment.

If fifteen days after the appointment of the arbitrators by each of the Parties in litigation, the said Parties shall not have agreed upon the place in which the arbitration is to be held, nor upon the manner of drawing lots to determine said place, as provided for by Article XII, then such drawing of lots shall be conducted by any of the Presidents of the Central American Republics not interested in the controversy within fifteen days subsequent to the expiration of the above mentioned fifteen days upon the request of any of the litigant Parties and in the presence of representatives of the litigant Parties, should such representatives have been appointed by them.

The two arbitrators shall meet thirty days after the receipt of notice of the last appointment, if both arbitrators reside in Central America, and sixty days after the receipt of said notice, if either of them resides in another country. If fifteen days after the expiration of these periods the interested Governments have not agreed on the selection of the third arbitrator, the two appointees shall make said selection within the next eight days and if no agreement is reached within this period, they shall proceed within the next three days to the drawing of lots provided in Article VII.

The third arbitrator shall proceed to the seat of the Tribunal within periods of time equal in duration to those fixed in this article for the attendance of the other arbitrators, to be counted, however, from the date upon which he may have received notification of his appointment by one of the Parties.

No two arbitrators of the same nationality may sit upon the Tribunal and none of the parties may elect an arbitrator who shall have been included by it in the permanent list of jurists.

ART. IX. Each of the Parties shall have the right to challenge not more than two of those persons who may be designated by lot to discharge the office of third arbitrator in the cases of Articles VII and VIII.

ART. X. In all cases mentioned in Articles VII and VIII, the third arbitrator shall always be the President of the Tribunal.

ART. XI. After the Tribunal shall have been organized in the manner prescribed in Article VIII, the interested Party shall present a complaint which should include all the points of fact and of law relating to the case. The Tribunal shall communicate, without loss of time, a copy of the complaint to the Government or Governments against whom the complaint may have been brought, and it shall invite them to present their allegations and evidence within the period of time fixed by the Rules of Procedure (Annex B).

ART. XII. The Tribunal shall sit at the place agreed on by the Parties in litigation, and if no agreement should be reached thereon, it shall sit at the Capital of any of the Central American Republics which may have no interest in the controversy. The selection of said Capital shall be made by lot drawn by the interested Parties. In the case of failure to reach an agreement in the aforesaid drawing of lots, the procedure prescribed in Article VIII shall be followed.

Whenever it judges that circumstances make it necessary the Tribunal shall have the power to order its removal to another locality outside of the territorial limits of the Parties in litigation.

ART. XIII. Within the limitations laid down in Article I, the Tribunal shall be empowered to determine its competency by interpreting the Treaties and Conventions relative to the matter in controversy and applying the principles of international law.

ART. XIV. Every decision of the Tribunal shall be rendered by a majority of votes.

ART. XV. Failure to attend on the part of any of the three arbitrators within the stated periods of time shall be deemed sufficient cause for his substitution. If he is one of those appointed by one of the Parties, the successor must reach the seat of arbitration not later than thirty days after his appointment. If he is the third arbitrator, the period will be sixty days.

If after the Tribunal is organized any of the arbitrators should fail to appear because of death, resignation or any other cause, his successor shall be appointed in the same manner provided for in this Convention, and he shall proceed to take his place in the Tribunal within the same periods of time aforementioned.

ART. XVI. The Parties to the dispute shall likewise have the right, after the Tribunal has been organized in conformity with Article VIII, and before one of them has filed its complaint, to intrust to the Tribunal, by common accord, the drawing up of a protocol defining clearly the question or questions at issue. If disagreement among the Parties should prevent the negotiation of the protocol, any of them shall have the right to file complaint immediately, in accordance with Article XI.

ART. XVII. Whenever, in the judgment of one of the Parties to the controversy, the question or questions at issue affect the material interests of one or more of the Signatory Republics, which are not Parties to said Controversy, the latter shall not participate in the appointment or in

the selection by lot of the arbitrators, nor of the seat of the Tribunal, and none of the persons included by said Republic or Republics in the permanent list of jurists, who may be nationals thereof, shall be a member of this Tribunal. Moreover, said Republic or Republics shall not be chosen as the seat of the afore-mentioned Tribunal.

ART. XVIII. The Parties in litigation may be represented before the Court of Arbitration by agents, as they may desire, but the members of the permanent list of jurists shall not appear as counsel or representatives of any Party before the Tribunal organized by this Convention except in defense of the interests of the nation which may have included them in said permanent list.

ART. XIX. The rules of Arbitration procedure laid down in Articles 63 to 84, both inclusive, of the Convention for the Pacific Settlement of International Disputes signed at the Hague, October eighteenth, nineteen hundred and seven, are hereby appended as Annex A to this Convention, and, unless the litigants by common accord should decide otherwise, said rules shall apply in all the cases of arbitration comprised in Article VII of the present Convention.

In the case of complaint contemplated in Article XI, the rules of procedure of the Tribunal shall be those which appear as Annex B to this same Convention.

The revision of the sentence of the Tribunal, on the ground of the discovery of a new fact, may be requested, in a case of arbitration, in conformity with the rules laid down in Annex A, and, in a case of complaint in accordance with the rules of the same Tribunal, Annex B.

The silence of the Parties in the drafting of the protocol of arbitration does not imply the renunciation of the right of recourse to revision in the cases provided in this Convention. In the event of said silence or of failure to have fixed the period of time to request the revision allowed in paragraphs three and four of Article I of this Convention, the period fixed in the rules of procedure (Annex B) for a case of complaint shall be deemed applicable.

ART. XX. Members of the Tribunal are barred from the exercise of their functions in any matters in which they may have material interest or in relation to which they may have appeared in any capacity before a National Tribunal, a Tribunal of Arbitration or of any other character, or before a Commission of Inquiry. This disability shall apply also whenever said members have acted in the aforementioned matters as counsel or agents of any of the Parties, or have rendered a professional opinion.

ART. XXI. From the moment when in conformity with the provisions of Article VIII, a complaint has been lodged against one or more of the Contracting Parties, the Tribunal shall have the right to determine, at the request of any of the Parties, the status in which the litigants must remain, to avoid an aggravation of the dispute, and to maintain the case in *statu quo* until the final Award is pronounced. For this purpose, the said Tribunal shall have the right, if it should deem it necessary, to make any investigations, to order examinations by experts, to conduct personal inspections and to receive any evidence.

ART. XXII. The reports of the Commissions of Inquiry, established by the Convention signed on this date, shall be considered by the Tribunal as part of the evidence, unless new evidence to the contrary should be offered to said Tribunal and it should be proved to the satisfaction of the Tribunal that said new evidence had not been taken into consideration by the Commission of Inquiry at the time they submitted their report.

ART. XXIII. The minimum honorarium of each of the arbitrators shall be one thousand dollars American Gold per month, from the time he accepts the call to become a member of the Tribunal until one month after the termination of his functions. He shall also be entitled to reimbursement for travelling expenses.

Each litigant Power shall pay the honorarium of its own arbitrator and half of the honorarium of the third arbitrator, and half of the general expenses of the Tribunal, without prejudice to the right of said Tribunal to order in its final sentence that one of the Parties pay all the honoraria and costs, or to apportion them in some other manner.

Any of the litigant Powers may furnish the share of costs and honoraria which correspond to one or to several of the other Powers. In this case, if said Power or Powers should fail to reimburse said sum within thirty days after the Tribunal, at the request of the interested Party, shall have requested them to do so, they shall not be heard until they have made said payment, and this action shall not delay the course of the trial nor its decision.

ART. XXIV. All the decisions of the Tribunal shall be communicated to the Governments of the five Contracting Republics. The interested Parties hereby undertake to abide by said decisions and to give them the necessary moral support in order that they may be duly enforced, thus constituting a real and positive guaranty that this Convention and the Tribunal herein established shall be respected.

ART. XXV. The Tribunal herein established shall be competent to decide those international questions which any of the Central American Governments and the government of a foreign nation may agree to submit to it by a special convention. The fact that it may be agreed in the respective protocol that the arbitrator nominated by the foreign party may be chosen at will does not prevent the application of the clauses of the present Convention in other respects.

ART. XXVI. The present Convention shall take effect with respect to the Parties that have ratified it, from the date of its ratification by at least three of the Signatory States.

ART. XXVII. The present Convention shall remain in force until the first of January, nineteen hundred and thirty-four, regardless of any prior denunciation, or any other cause. From the first of January, nineteen hundred and thirty-four, it shall continue in force until one year after the date on which one of the Parties bound thereby notifies the others of its intention to denounce it. The denunciation of this Convention by one or two of said obligated Parties shall leave it in force for those parties which have ratified it and have not denounced it, provided that these be no less than three in number. Should two or three States bound by this Conven-



tion form a single political entity, the same Convention shall be in force as between the new entity and the Republics obligated thereby which have remained separate, provided these be no less than two in number. Any of the Republics of Central America which should fail to ratify this Convention, shall have the right to adhere to it while it is in force.

ART. XXVIII. The exchange of ratifications of the present Convention shall be made through communications addressed by the Governments to the Government of Costa Rica, in order that the latter may inform the other Contracting States. If the Government of Costa Rica should ratify the Convention, notice of said ratification shall also be communicated to the others.

ART. XXIX. The original of the present Convention, signed by all the delegates plenipotentiary, shall be deposited in the archives of the Pan-American Union at Washington. A copy duly certified shall be sent by the Secretary-General of the Conference to each one of the Governments of the Contracting Parties.

Signed at the City of Washington, on the seventh day of February, Nineteen Hundred and Twenty-three.

F. Sánchez Latour	Raúl Toledo López
Marcial Prem	Emiliano Chamorro
F. Martínez Suárez	Adolfo Cárdenas
J. Gustavo Guerrero	Máximo H. Zepeda
Alberto Uclés	Alfredo González
Salvador Córdova	J. Rafael Oreamuno

#### ANNEX A

##### *Rules of Procedure Referred to in Paragraph One of Article XIX of the Convention*

Reproduces Articles 63-84 of the Convention for the Pacific Settlement of International Disputes signed at The Hague on October 18, 1907; for text see below, Annex II.

#### ANNEX B

##### *Rules of Procedure Referred to in Paragraph Two of Article XIX of the Convention for the Establishment of an International Central American Tribunal*

#### CHAPTER I. PROCEDURE PREVIOUS TO THE COMPLAINT

ARTICLE I. The interested Party or Parties desiring to have recourse to the International Central American Tribunal in the exercise of the power conferred upon them by Article VIII of the Convention, may request the organization of said Court by applying directly or through their Diplomatic or Consular Agents to the Minister for Foreign Affairs of the other Party.

The same procedure shall be followed when a Party has to apply to another State in compliance with said Convention for the execution of any judicial proceeding or for the drawing of lots.

ART. 2. The President appointed to draw the lots provided for by Article VIII of the Convention shall do so in the presence of the Minister for Foreign Affairs and another Member of his Cabinet, after having previously invited the special agents of the litigant Parties, should said Parties have appointed them, and the Diplomatic Agents of the other countries of Central America, should any be accredited to said Government, in order that all these may attend if they so desire.

ART. 3. The President of the Republic shall notify through the proper channels all the Parties interested in the dispute, of the result of each and every drawing.

He shall also notify the appointed arbitrators of the appointment made by the Party or Parties which may have requested the negotiation of the protocol, and of the result of each of the drawings effected, so that they may proceed to meet within the fixed period of time.

ART. 4. Each Arbitrator appointed shall take an oath administered by the President of the Central American Republic at whose Capital the Tribunal may sit, faithfully and duly to fulfil his duties.

ART. 5. The Tribunal shall appoint, from outside of its membership, a Recording Secretary, who shall be a lawyer and take an oath administered by the President of the said Tribunal. The Tribunal shall have the power also to appoint such additional personnel as it may deem fit.

## CHAPTER II. THE COMPLAINT AND ITS PROCEDURE

ART. 6. The interested Party or Parties shall file their complaint within a term of fifteen days from the date on which the Tribunal may have notified them of its inauguration.

ART. 7. Once the complaint has been admitted by the Tribunal a copy of the same shall be sent to the defendant, with the request that it file its answer within a term of sixty days.

ART. 8. The defendant Government may file demurrers during the first half of the term fixed to make answer. A hearing on the demurrers shall be granted to the plaintiff within the following ten days. The Tribunal shall render its decision on the demurrers within the twenty days after the expiration of said term unless it should deem it proper to extend the time for the presentation of evidence.

No demurrer filed after the expiration of the aforesaid term can determine any incident requiring a previous finding, but shall be reserved for consideration in the final decision in the case.

ART. 9. If the demurrers are sustained, the ruling of the Court to this effect shall imply an impossibility to proceed further on the complaint, until the irregularities or errors objected to are corrected within the time fixed in the sentence itself; this done, the Tribunal shall proceed with the complaint referring it again to the defendant; all this without prejudice to the provisions of Article XXI of the Convention.

ART. 10. If at the expiration of the period fixed in Article VIII, no answer to the complaint should have been made nor demurrers filed in due time, the Tribunal shall grant to the aforesaid Party or Parties a new

term of twenty days to make answer. The same procedure shall be followed in the case of the additional extension of time, provided for in Article 9. In both cases, at the expiration of twenty days, a day and hour shall be set for a hearing of the final arguments of the Parties, and upon the end of the latter term, the oral discussion shall be deemed closed and the Tribunal shall issue an order declaring the case under advisement pending judgment. But should time have been granted for the introduction of evidence, in conformity with the Chapter on Evidence, the Tribunal shall not issue the aforesaid declaratory order until after the expiration of this time.

ART. 11. The Parties may plead orally or in writing before the Tribunal on the day of the hearing without prejudices to their right to submit arguments in writing at any other time.

ART. 12. When both Parties should appear to argue during the hearing in Court of the case, each of them shall be entitled to address the Tribunal three times, alternatively, and the plaintiff shall have the opening. If several Parties plaintiff or defendant should appear in Court at the hearing, all shall be allowed to address the Tribunal in the alternative order established, and the President shall assign its turn to each of the Parties.

ART. 13. The vote on the sentence shall be taken in conformity with a questionnaire which the President shall formulate and submit to the approval of the Tribunal, wherein reference shall be made to all controverted questions of fact and of law, as disclosed by the records.

The vote shall be taken on what the resolute part of the decision must be, and shall be recorded in a proceeding which shall state the hour and date of the voting, and be signed by the arbitrators and the secretary. The decision shall be written by the President of the Tribunal in accordance with said vote and in conformity with the formalities and requirements established in Article 39 of these Rules of Procedure.

ART. 14. If, in any pleading which shall not contain a petition or application necessary for the exercise of the action or defence, there should be expressions or phrases of disrespect or insulting remarks against the Tribunal or its members, or against any of the litigants, or against the States and their public authorities, the Tribunal shall order the Secretary<sup>1</sup> to return the original to its author with a note at the foot thereof stating that it is irregular.

If any pleading shall contain a petition or application meriting attention, the Tribunal shall point out the objectionable words or phrases and order the secretary<sup>1</sup> to notify the petitioner or applicant to replace the pleading within a period of twenty-four hours omitting the objectionable part; and should he fail to do so, the pleading shall be returned to him, retaining for its legal effects a certified copy only of such part of its contents as is not objectionable.

ART. 15. If the offences indicated be committed during the oral arguments, the President of the Tribunal shall interrupt the pleader, calling his attention to the matter, and should he repeat the offence, he shall be denied the right to speak and be invited to address the Tribunal in writing.

<sup>1</sup> The Spanish text has *Secretaria*, 'Secretariat.'

ART. 16. The Tribunal shall not admit any complaint which may contravene the provisions of Article I of this Convention.

ART. 17. No complaint shall be entertained which fails to state the facts that constitute the question or questions in dispute and the legal grounds upon which the complainant bases his case.

ART. 18. Claim for damages shall not be deemed included in the complaint when the latter shall not expressly contain it; but the omission of such claim does not imply a renunciation of the corresponding right.

ART. 19. Claims or disputes which do not necessarily follow from the principal action, or which [do not]<sup>1</sup> involve a dispute over the rights of third Parties, or the settlement of which may require a special complaint, shall not be accepted as incidental questions.

ART. 20. The right of the contending Parties to request the measures authorized by Article 21 of the Convention shall be recognized only in consequence of a claim or controversy which is not contrary to the provisions of Article 16 of these Rules of Procedure.

ART. 21. All claims which the plaintiff may present against the defendant shall be consolidated in a single action, provided that they are not so inconsistent that the enforcement of one will impair the enforcement of the other.

Consolidated actions shall be taken up together and determined in a single decision.

ART. 22. After an action has been passed upon and decided by the Tribunal, no new claim referring thereto shall be admissible which is presented by the same party, founded on the same facts and circumstances, and directed towards the same purpose.

### CHAPTER III. EVIDENCE

ART. 23. The plaintiff shall present, together with the libel that initiates the action, the evidence upon which he shall base his claim, and the defendant shall do the same upon answering the declaration. Both shall also have the right to present their proof within the regular period for the submission of evidence, which shall be sixty days and which shall not be denied when requested by one of the parties.

ART. 24. Only upon petition of a Party shall the Tribunal have power to fix a special period for the introduction of evidence and in order that, in such a case, the procedure shall be deemed proper, there must concur the following requisites:

1. That the petition shall express its nature and object, and at the same time state the reason why such justification was omitted in the petition of complaint, or in the answer or during the regular period provided for the introduction of evidence.

2. That if it shall consist of private documents or public instruments, their character and contents shall be mentioned, and in case the Party does not as yet possess them, the archives wherein they are shall be specified.

<sup>1</sup> The insertion of these words is an obvious error. Cf. the Spanish text.

3. That, if it shall consist of testimony of witnesses or experts already given, the name, nationality, residence and other qualifications of the witnesses or experts, as well as the facts that appear from their depositions or opinions, shall be stated, and if it shall consist of information as yet to be obtained, that, together with the name, residence and other personal data, shall be stated, besides the interrogatories or corresponding questions.

4. That the evidence shall be relevant and of undoubted importance for the decision, in the judgment of the Tribunal.

5. That the petition shall be made before the announcement decree of the Tribunal declaring that the case is in the stage of decision.

6. That the said evidence could not have been produced with the complaint or the answer, or during the regular period, either because the facts to which it refers or the acts in which it consists have been produced afterwards, or because it was involuntarily or excusably omitted in the judgment of the Tribunal.

ART. 25. Every petition for the appointment of a special term to introduce evidence shall be decided upon within ten days during which time the opposite party may be heard, and if the requisites of the next preceding article have been complied with, and the Tribunal deems it proper to grant the said term, it shall do so, ordering for such a purpose a prudential term not longer than ninety days, which shall include the period for obtaining said evidence.

If, upon the granting of said term, the Party who has obtained it, shall amplify his petition, the new evidence shall be subject to the aforesaid qualifications, with an equal hearing to the opposite Party; but the term fixed for the introducing of evidence shall not be extended.

ART. 26. The special term fixed by the Tribunal for the introduction of evidence according to the next preceding article, shall not be granted more than once, it cannot be extended, and evidence not brought forth during the said term shall be deemed as abandoned.

ART. 27. The special and the regular terms fixed for introducing evidence are common to all the Parties to the suit. The evidence which may be offered or introduced by the Party who has not requested the said terms shall be subject to the formalities and reservations established in the three next preceding articles.

ART. 28. The Tribunal shall not decree, *ex officio*, any proof upon questions, facts or circumstances which the Parties shall not have stated or alleged in the complaint or answer thereto.

ART. 29. In the proceedings for the taking of evidence, decreed *ex officio*, the Parties shall not have any more intervention than that which the Tribunal may allow them; the proceedings do not imply the fixing of a given period, and must be executed without prejudice to the course of the terms prescribed by these Rules of Procedure.

ART. 30. For the taking of evidence, the Tribunal shall address itself, when necessary, to the Governments and Courts of Justice of the Republics of Central America through the medium of the Ministry for Foreign Affairs, or the Secretary's Office of the Supreme Court of Justice

in the respective country, in accordance with the character of the commission to be executed.

ART. 31. In like manner the Tribunal may appoint special commissions to carry out a proceeding of investigation, in accordance with the next preceding article, when deemed advisable. In this case, if such proceedings should be carried out in Central America, the respective order and appointment shall be communicated to the Government of the Central American State, wherein it must be executed, which shall insure the fulfillment of the orders of the Tribunal, by extending all the necessary assistance for the prompt and effective execution thereof.

ART. 32. The Tribunal shall consider the facts to which the controversy refers with absolute freedom of judgment, and the questions of law upon which it may depend according to the treaties and the principles of law.

#### CHAPTER IV. JUDICIAL RESOLUTIONS

ART. 33. The resolutions of the Tribunal are:

1. Sentences, if they finally decide the question in controversy, or, if upon an incident, they put an end to the litigation by making its prosecution impossible.

2. Decrees (autos), if their object is to decide an incidental question.

3. Orders (providencias), if they refer to questions of mere procedure.

ART. 34. All judicial resolutions shall be headed by the name of the Tribunal; they shall state the place, the hour, the day, the month and the year in which they are issued, and must be signed by all the Arbitrators and by the Secretary.

ART. 35. If an arbitrator who has participated in a decision refuses to sign the resolution or should he die or for any cause should he be incapacitated or rendered unable to sign, the Secretary shall write at the foot of said resolution an explanatory reason of the defect, and that will cure the same for all legal purposes.

ART. 36. The orders shall be issued within a period of three days following petition therefor, if any such petition should be made; and the decrees shall be issued within five days after the conclusion of the proceedings on the incident save in the cases which may be specially excepted.

The sentence shall be voted upon and pronounced within the 30 days following the date on which the trial shall have been declared in stage of decision.

ART. 37. Upon final judgment having been rendered by the Tribunal the Parties and the five Central American Republics shall be so notified. Once this is done all the documents bearing on the case shall be kept in the archives of the Capital of the Republic in which the judgment shall have been rendered.

ART. 38. The orders shall express clearly the act or proceeding which they may decree, with citation of the articles of these Rules of Procedure upon which they may be founded.

ART. 39. The decrees shall express the findings and considerations upon which they proceed relative to such points of fact and points of law as they decide.

The sentences shall be pronounced in conformity with Articles VIII and XIV of the Convention for the establishment of the International Central American Tribunal, and with Articles 13 and 34 of these Rules of Procedure, and shall contain the following requisites:

1. They shall express who the contending Parties are, stating the names and qualifications of their counsel or representatives, and the object of the litigation.

2. In separate paragraphs, which shall begin with the words *It Results* or *Resulting*, the claims of the Parties and the facts upon which they are founded shall be stated clearly and as briefly as possible, provided that they are related to the questions which are to be decided.

3. The points of fact and of law constituting the controversy shall be set forth also in separate paragraphs, headed by the word *Considering*: the juridical reasons and grounds which shall be deemed as controlling the decision, and the laws, international treaties and principles of law applicable to the case, shall also be cited.

4. Lastly, the resolute part of the decision shall be pronounced.

ART. 40. Before its notification to any of the Parties, the Tribunal, *ex officio*, may either wholly or in part, modify the sentence which has been voted and pronounced, by a new decision which shall be delivered with the formalities and requisites set forth in the next preceding article, and in which the defect or error committed in the consideration of the facts or the application of the laws or principles of law relating to the case shall be expressed.

To proceed to such a modification, it is indispensable that the Tribunal previously agrees to the revision, upon request of one of the Arbitrators, stating the grounds for the same.

ART. 41. The Tribunal, *ex officio*, may modify, wholly, or in part, its own decrees and orders before notification, if it shall judge that there has been some error in the issuance of the same. After said notification, the Tribunal may modify said order or decree upon the petition of any of the Parties, filed within the five days following.

In any case, the decree of modification shall specifically state the error upon which it is grounded.

ART. 42. After the time specified in the next preceding article, the Tribunal, *ex officio*, may decree the said modification, expressing always the error or errors which may justify the amendment.

ART. 43. Whenever the said modification must necessarily affect any further proceedings subsequent to the decree or order which is modified, the case shall be ordered to be restored to the same state in which it was at the time of issuing the said proceedings.

ART. 44. The right of the Parties to request the interpretation of a decision must be exercised within thirty days following the last notification.

## CHAPTER V. JUDICIAL FORMALITIES

ART. 45. There shall be no abbreviations employed in any judicial paper or document; dates and numbers shall be written in words, and no error shall be erased, no interlineation shall be inserted, and no amendments shall be made by changing the writing, but every error must be rectified by a note at the foot of the said paper or document.

ART. 46. The petitioner shall accompany every plea which shall be filed in the case, including the declaration and answer, as well as all documents constituting the evidence presented in the controversy, with as many literal copies, signed by said Party, as there may be litigants, to whom they shall be delivered at the time of notification or hearing, or immediately, if such procedure shall not be in order.

The Secretary<sup>1</sup> shall certify as to the presentation and correctness of said copies and in case of inaccuracy he shall point out the difference.

Should the interested Party or Parties fail to comply with this requisite, the Tribunal shall order that copies thereof be sent to said Party or Parties, at their own expense.<sup>2</sup>

ART. 47. The files (*expedientes*) and documents annexed thereto shall not be delivered to the Parties for the purpose of notification or upon any other excuse whatsoever, but they may examine the same in the office under the supervision of the Secretary.

ART. 48. The Parties have the right to request certified copies of all papers constituting the files but they may exercise that right only once for each of the said papers.

ART. 49. All pleas must be filed with the Secretary<sup>1</sup> of the Tribunal by the counsel or legal representative of the interested Party, unless the signature which authorizes it shall be duly authenticated.

Provided, however, that the Governments may always address their petitions through their foreign office, or through their diplomatic representatives.

## CHAPTER VI. NOTICES

ART. 50. All judicial resolutions shall be notified to the Parties, unless they have expressly or impliedly renounced the right to such notice.

ART. 51. No resolution shall be effective against the Parties to the controversy unless they are in fact or constructively notified in accordance with the provisions of this chapter.

ART. 52. The resolutions having the character of sentences shall be communicated in every case to the five Governments of Central America.

ART. 53. The judicial decree by which an action is declared to be admitted and whereby it is notified to the defendant, in order that he may answer the same, shall be communicated to the respective Ministers for

<sup>1</sup> Cf. p. 48, note 1.

<sup>2</sup> A translation of the Spanish text would read, 'the Tribunal shall order that the said copies be sent at the expense of the same Party or Parties.'



Foreign Affairs, in a note accompanied by a literal copy of the libel, setting forth the complaint, the evidence presented and the resolution taken.

Said communication, upon previous telegraphic notice, if possible, in which an extract of the libel shall be given, shall be sent by registered mail, and the notification shall be deemed as made as soon as the defendant's Government acknowledges receipt of the postal dispatch, and in any case after thirty days from the date in which, according to the record in the post office, the notice has been mailed, unless it be clearly shown that the notification was in fact made subsequently.

ART. 54. The orders which the Tribunal shall issue, according to the provisions of Article XXI of the Convention, to establish the situation in which the contending Parties must remain while the final decision is pronounced shall be communicated immediately by the most rapid means to the interested Parties, and also to the other Central American Governments.

ART. 55. The complainant in the libel or declaration, and the defendant in his first plea shall designate a person or a public office in the place where the Tribunal has its seat to receive any notifications not included in Article 53; and when, according to the provisions in Article XII of the Convention the Tribunal may temporarily change its seat, it shall decree that the Parties, within a period of ten days, not to be extended, dating from its change of seat, shall make in said place a new designation of a person or office to receive the notifications.

ART. 56. If in either of the two cases provided for in the next preceding article, the litigants should abstain from making the designation therein prescribed, they shall be deemed as having waived the right to receive any notification whatsoever, and the orders shall be effective as against the delinquent Party or Parties only during the period of forty-eight hours after they shall be issued.

ART. 57. All notifications shall be made by the Secretary of the Tribunal and included in the record upon return made, which must express the day, hour, place and circumstances attending the service of said notification, and which shall be signed by said functionary and the person notified or the person who shall receive the notification.

In case these shall refuse to sign or be incapacitated from so doing, the fact shall be mentioned in the record.

When the Party shall appear in person at the office, or when the Secretary shall find him, he shall notify him, reading to him the whole of the order in question.

In all other cases, the notification shall be made by means of a warrant which shall be delivered to the designated person or to any employee in the office chosen for the purpose. In case the Party who must receive the warrant shall not be found in his domicile, or in case the office indicated shall not be open, the warrant shall be sent by registered mail to said person, or to the chief or secretary of the office, which will be equivalent to a legal compliance with the act of notification.

ART. 58. Every warrant of notification shall express the nature and object of the litigation; shall designate the Parties to the same, shall con-

tain, in the proper case, an extract of the petition or plea to which the resolution may refer, and shall include a literal copy of the ruling part of the same.

#### CHAPTER VII. CHALLENGES

ART. 59. The power to challenge belongs exclusively to the contending Parties and can only be exercised with respect to the action entered and admitted or to the incidental questions to which the debate on the same shall give rise.

ART. 60. The Arbitrators are not subject to be challenged during the prosecution of the suit, but in cases of nullity of sentence established in section three of Article I, the revision shall be conducted as provided in the following chapter.

ART. 61. The grounds of disqualification established for judges in Article XX of the Convention shall constitute grounds for challenging the Secretary. The Tribunal shall decide said challenge after examining the facts and questioning the officer challenged.

During the proceedings on the incident, and until the new Secretary is appointed to fill the vacancy, the Secretary shall be replaced in the trial by such officer as the Tribunal may designate.

ART. 62. Experts may also be challenged on the same grounds prescribed in the next preceding article for the Secretary.

The challenge of an expert shall be made within the three days following notice of the ruling in which the expert opinion in question is declared to have been submitted, in cases relating to the evidence submitted with the complaint or answer or the ruling making the appointment, in cases relating to evidence to be submitted in the course of the trial, according to the provisions of these Rules of Procedure.

The challenge shall be argued and passed upon in the form provided for the challenge of the Secretary in the next preceding Article.

#### CHAPTER VIII. REVISION

ART. 63. Final judgment having been rendered, the Parties may petition the Tribunal for its revision on the ground of nullity provided for in the third paragraph of Article I of the Convention.

In such case, the Party requesting the revision shall address the petition to the member or members of the Tribunal not challenged by said Party, and shall state to them in specific form the grounds of the alleged nullity. Upon receipt of such notification and the statement of said charges, the judge or judges not challenged shall effect the replacement of the judge or judges challenged in the same manner in which they had been appointed.

ART. 64. As soon as the Tribunal is constituted in the form prescribed in the next preceding Article and the petition having been submitted, the Tribunal shall thereupon order the Parties to the suit to appear in Court within a period of thirty days from the filing of the petition and plead their case. After the expiration of this term, whether or not the Parties have availed themselves of the extension of time, the Tribunal, after adopting such measures as it may deem fit, shall affirm or modify the de-

create or render a new one within a period of sixty days which shall not be subject to extension, and which shall be reckoned from the expiration of the thirty days aforementioned.

ART. 65. In no case shall the right of revision be exercised after the expiration of ninety days from the date of the last notice of the final decision sought to be revised.

If application for revision is made subsequent to that period of time, it shall be absolutely denied.

ART. 66. In order to allow a revision it shall be indispensable that the sum of twenty-five thousand dollars be enclosed with the petition for revision.

In case the judgment is not affirmed, this sum shall be returned. However, if the judgment is affirmed, the said sum shall be paid to the other Party as compensation for damages.

ART. 67. When the judgment is affirmed, the petitioner shall pay the costs of the suit and shall forfeit the amount deposited.

ART. 68. The judgment rendered on revision shall be final and not subject to review.

ART. 69. In case the petition for revision is based on the grounds provided in the fourth paragraph of Article I of the Convention, the Tribunal shall proceed as provided for in this Chapter, except that no arbitrator shall be replaced, and that the complaint shall be filed with the Tribunal itself.

#### SUPPLEMENTARY ARTICLE

The word Convention when used without any qualification in these Rules refers in all cases to the Convention for the establishment of an International Central American Tribunal, signed on this date, and of which these Rules are an annex.

#### ADDITIONAL PROTOCOL TO THE CONVENTION RELATIVE TO THE ESTABLISHMENT OF AN INTERNATIONAL CENTRAL AMERICAN TRIBUNAL

On the occasion of signing the above-mentioned Convention relative to the establishment of an International Central American Tribunal the undersigned have agreed to declare, with reference to Paragraph 2 of Article 63 of ANNEX A of said Convention, that the presentation of the facts and documents called for in the case to be submitted to said Tribunal, can only be effected directly, without recourse to the International Office to which reference is made in said paragraph and article.

In testimony whereof they sign the present Protocol, which shall be considered as an integral part of the Convention referred to.

Washington, February seventh, nineteen hundred and twenty-three.

F. Sánchez Latour	Raúl Toledo López
Marcial Prem	Emiliano Chamorro
F. Martínez Suárez	Adolfo Cárdenas
J. Gustavo Guerrero	Máximo H. Zepeda
Alberto Uclés	Alfredo González
Salvador Córdova	J. Rafael Oreamuno

## No. 10

COSTA RICA-GUATEMALA-HONDURAS-NICARAGUA-  
SALVADOR-UNITED STATES OF AMERICA:  
TREATY OF CONCILIATION

Signed at Washington February 7, 1923; ratifications deposited by Costa Rica, Guatemala, Honduras, Nicaragua, and the United States of America June 13, 1925.

Original text from United States of America, *Treaty Series*, 1925, No. 717.<sup>1</sup>

The Government of the United States of America and the Governments of the Republics of Guatemala, El Salvador, Honduras, Nicaragua and Costa Rica, desiring to unify and recast in one single convention the conventions which the Government of the United States concluded with the Government of Guatemala on September 20, 1913, with the Government of El Salvador on August 7, 1913, with the Government of Honduras on November 3, 1913, with the Government of Nicaragua on December 17, 1913, and with the Government of Costa Rica on February 13, 1914, all relating to the Establishment of International Commissions of Inquiry, have for that purpose, named as their Plenipotentiaries:<sup>2</sup>

The President of the United States of America:

The Honorable Charles E. Hughes, Secretary of State of the United States of America.

The Honorable Sumner Welles, Envoy Extraordinary and Minister Plenipotentiary.

The President of the Republic of Guatemala:

Señor Don Francisco Sánchez Latour, Envoy Extraordinary and Minister Plenipotentiary to the United States of America.

The President of the Republic of El Salvador:

Señor Doctor Don Francisco Martínez Suárez, President of the Supreme Court.

Señor Doctor Don J. Gustavo Guerrero, Envoy Extraordinary and Minister Plenipotentiary to Italy and Spain.

The President of the Republic of Honduras:

Señor Doctor Don Alberto Uclés, Ex-Minister for Foreign Affairs.

Señor Doctor Don Salvador Córdova, Ex-Minister Resident in El Salvador.

Señor Don Raúl Toledo López, Chargé d'Affaires in France.

The President of the Republic of Nicaragua:

Señor General Don Emiliano Chamorro, Ex-President of the Republic and Envoy Extraordinary and Minister Plenipotentiary to the United States of America.

Señor Don Adolfo Cárdenas, Minister of Finance.

Señor Doctor Don Máximo H. Zepeda, Ex-Minister for Foreign Affairs.

<sup>1</sup> The Spanish text is also authentic.

<sup>2</sup> *Treaty Series* has 'I plenipotenciaries.'

The President of the Republic of Costa Rica:

Señor Licenciado Don Alfredo González Flores, Ex-President of the Republic.

Señor Licenciado Don J. Rafael Oreamuno, Envoy Extraordinary and Minister Plenipotentiary to the United States of America.

Who, after having exhibited to one another their respective full powers which were found to be in good and proper form, have agreed upon the following articles:

ARTICLE I. When two or more of the Contracting Parties shall have failed to adjust satisfactorily through diplomatic channels a controversy originating in some divergence or difference of opinion regarding questions of fact, relative to failure to comply with the provisions of any of the treaties or conventions existing between them and which affect neither the sovereign and independent existence of any of the signatory Republics, nor their honor or vital interests, the Parties bind themselves to institute a Commission of Inquiry with the object of facilitating the settlement of the dispute by means of an impartial inquiry into the facts.

This obligation ceases if the Parties in dispute should agree by common accord to submit the question to arbitration or to the decision of another Tribunal.

A Commission of Inquiry shall not be formed except at the request of one of the Parties directly interested in the investigation of the facts which it is sought to elucidate.

ART. II. Once the case contemplated in the preceding article has arisen, the Parties shall by common accord draw up a protocol in which shall be stated the question or questions of fact which it is desired to elucidate.

When, in the judgment of one of the interested Governments, it has been impossible to reach an agreement upon the terms of the Protocol, the Commission will proceed with the investigation, taking as a basis the diplomatic correspondence upon the matter, which has passed between the parties.

ART. III. Within the period of thirty days subsequent to the date on which the exchange of ratifications of the present Treaty has been completed, each of the Parties which have ratified it shall proceed to nominate five of its nationals, to form a permanent list of Commissioners. The Governments shall have the right to change their respective nominations whenever they should deem it advisable, notifying the other Contracting Parties.

ART. IV. When the formation of a Commission of Inquiry may be in order, each of the Parties directly interested in the dispute shall be represented on the Commission by one of its nationals, selected from the permanent list. The Commissioners selected by the Parties shall by common accord, choose a President who shall be one of the persons included in the permanent list by any of the Governments which has no interest in the dispute.

In default of said common agreement, the President shall be designated by lot, but in this case each of the Parties shall have the right to challenge no more than two of the persons selected in the drawing.

Whenever there shall be more than two Governments, directly interested in a dispute and the interests of two or more of them be identical, the Government or Governments, which may be parties to the dispute, shall have the right to increase the number of their Commissioners from among the members of the permanent list nominated by said Government or Governments, as far as it may be necessary, so that both sides in the dispute may always have equal representation on the Commission.

In case of a tie, the President of the Commission shall have two votes.

If for any reason any one of the members appointed to form the Commission should fail to appear, the procedure for his replacement shall be the same as that followed for his appointment. While they may be members of a Commission of Inquiry, the Commissioners shall enjoy the immunities which the laws of the country, where the Commission meets, may confer on members of the National Congress.

The diplomatic representatives of any of the Contracting Parties accredited to any of the Governments which may have an interest in the questions which it is desired to elucidate, shall not be members of a Commission.

ART. V. The Commission shall be empowered to examine all the facts, antecedents, and circumstances relating to the question or questions which may be the object of the investigation, and when it renders its report it shall elucidate said facts, antecedents, and circumstances and shall have the right to recommend any solutions or adjustments which, in its opinion, may be pertinent, just and advisable.

ART. VI. The findings of the Commission will be considered as reports upon the disputes, which were the objects of the investigation, but will not have the value or force of judicial decisions or arbitral awards.

ART. VII. In the case of arbitration or complaint before the Tribunal created by a Convention signed by the five Republics of Central America, on the same date as this Convention, the reports of the Commission of Inquiry may be presented as evidence by any of the litigant Parties.

ART. VIII. The Commission of Inquiry shall meet on the day and in the place designated in the respective protocol and failing this, in the place to be determined by the same Commission, and once installed it shall have the right to go to any localities which it shall deem proper for the discharge of its duties. The Contracting Parties pledge themselves to place at the disposal of the Commission, or of its agents, all the means and facilities necessary for the fulfilment of its mission.

ART. IX. The signatory Governments grant to all the Commissions which may be constituted the power to summon and swear in witnesses and to receive evidence and testimony.

ART. X. During the investigation the Parties shall be heard and may have the right to be represented by one or more agents and counsel.

ART. XI. All members of the Commission shall take oath before the highest judicial authority of the place where it may meet, duly and faithfully to discharge their duties.

ART. XII. The Inquiry shall be conducted so that both Parties must be heard. Consequently, the Commission shall notify each Party of the statements of fact submitted by the other, and shall fix periods of time in which to receive evidence.

Once the Parties are notified, the Commission shall proceed to the investigation, even though they fail to appear.

ART. XIII. As soon as the Commission of Inquiry is organized, it shall, at the request of any of the Parties to the dispute, have the right to fix the status in which the Parties must remain, in order that the conditions may not be aggravated and matters may remain in the same state pending the rendering of the report by the Commission.

ART. XIV. The report of the Commission shall be published within three months, to be reckoned from the date of its inauguration unless the Parties directly interested decrease or increase the time by mutual consent.

The report shall be signed by all the members of the Commission. Should one or more of them refuse to sign it, note shall be taken of the fact, and the report shall always be valid provided it obtains a majority vote.

In every case the vote of the minority, if any, shall be published with the report of the Commission.

One copy of the report of the Commission and of the vote of the minority, if any, shall be sent to each of the Ministries of Foreign Affairs of the Contracting Parties.

ART. XV. Each Party shall bear its own expenses and a proportionate share of the general expenses of the Commission.

The President of the Commission shall receive a monthly compensation of not less than 500 dollars, American gold, in addition to his travelling expenses.

ART. XVI. The present Convention, signed in one original, shall be deposited with the Government of the United States of America, which Government shall furnish to each of the other Signatory Governments an authenticated copy thereof. It shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by the Executive and Legislative Powers of the Republics of Guatemala, El Salvador, Honduras, Nicaragua, and Costa Rica, in conformity with their constitutions and laws.

The ratifications shall be deposited with the Government of the United States of America, which will furnish to each of the other Governments an authenticated copy of the procès verbal of the deposit of ratification. It shall take effect for the parties which ratify it immediately after the day on which at least three of the Contracting Governments deposit their ratifications with the Government of the United States of America. It will continue in force for a period of ten years, and shall remain in force thereafter for a period of twelve months from the date on which any one of the Contracting Governments shall have given notification to the others, in proper form, of its desire to denounce it.

The denunciation of this Convention by one or more of the said Contracting Parties shall leave it in force for the Parties which have ratified

it but have not denounced it, provided that these be no less than three in number. Should any Central American States bound by this Convention form a single political entity, this Convention shall be considered in force as between the new entity and the Contracting Republics, which may have remained separate, provided that these be no less than two in number. Any of the Signatory Republics, which should fail to ratify this Convention, shall have the right to adhere to it while it is in force.

In witness whereof the abovenamed Plenipotentiaries have signed the present convention and affixed thereto their respective seals.

Done at the City of Washington, the seventh day of February, one thousand nine hundred and twenty-three.

Charles E. Hughes	Raúl Toledo López
Sumner Welles	Emiliano Chamorro
Francisco Sánchez Latour	Adolfo Cárdenas
F. Martínez Suárez	Máximo H. Zepeda
J. Gustavo Guerrero	Alfredo González
Alberto Uclés	J. Rafael Oreamuno
Salvador Córdova	

#### COMMISSION OF CONCILIATION

##### PANEL FROM WHICH TO CHOOSE A COMMISSION OF CONCILIATION OF THREE OR MORE MEMBERS

##### *Nominees of Costa Rica*

ANDRES VENEGAS. (*Costa Rican.*)    JUAN RAFAEL ARIAS. (*Costa Rican.*)  
 LUIS ANDERSON. (*Costa Rican.*)    ARTURO VOLIO. (*Costa Rican.*)  
 ALEJANDRO ALVARADO. (*Costa Rican.*)

##### *Nominees of Guatemala*

No information available.

##### *Nominees of Honduras*

No information available.

##### *Nominees of Nicaragua*

ALFONSO AYON.	MÁXIMO H. ZEPEDA.
ALFONSO SOLORZANO.	JOAQUÍN VIJIL.

##### *Nominees of Salvador*

No information available.

##### *Nominees of the United States of America*

No information available.



## No. 11

## SWEDEN-URUGUAY: TREATY OF CONCILIATION

Signed at Montevideo February 24, 1923; ratifications exchanged February 24, 1927.

Original text from Sweden, *Överenskommelser med främmande makter*, 1927, No. 14;<sup>1</sup> English translation from League of Nations, *Treaty Series*, LXIII, 250-254.

(Translation)

Sa Majesté le Roi de Suède et Son Excellence le Président de la République Orientale de l'Uruguay désirant affermir les relations amicales qui unissent leurs deux pays et servir la cause de la paix générale, ont décidé de conclure une convention à ces fins et ont nommé, en conséquence, les Plénipotentiaires ci-après désignés, savoir:

His Excellency the President of the Oriental Republic of Uruguay and His Majesty the King of Sweden, being desirous of strengthening the ties of friendship which unite the two countries and of furthering the cause of universal peace, have decided to conclude a Convention for this purpose and have accordingly appointed the Plenipotentiaries named hereunder, that is to say:

Sa Majesté le Roi de Suède Monsieur Carl F. Hultgren, Son Envoyé Extraordinaire et Ministre Plénipotentiaire près Son Excellence le Président de la République Orientale de l'Uruguay, Commandeur de première classe de Son Ordre de l'Etoile Polaire, Commandeur de deuxième classe de Son Ordre de Wasa; et

His Excellency the President of the Oriental Republic of Uruguay: Dr. Juan Antonio Buero, His Secretary of State for Foreign Affairs;

His Majesty the King of Sweden: M. Carl F. Hultgren, His Envoy Extraordinary and Minister Plenipotentiary to His Excellency the President of the Republic of Uruguay, Knight Commander of His Order of the Polar Star, first class, Knight Commander of His Order of Vasa, second class;

Son Excellence le Président de la République Orientale de l'Uruguay Monsieur Juan Antonio Buero, Son Ministre Secrétaire d'Etat des Relations Extérieures,

Lesquels, après s'être communiqué leurs Pleins Pouvoirs, trouvés en bonne et due forme, sont convenus des articles suivants:

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1<sup>er</sup>. Tout différend, de quelque nature qu'il soit, qui pourra s'élever entre le Gouvernement de Sa Majesté le Roi de Suède et le Gouvernement de la République

ARTICLE 1. Any dispute whatsoever which may arise between the Government of the Republic of Uruguay and the Government of His Majesty the King of Sweden

<sup>1</sup> See also League of Nations, *Treaty Series*, LXIII, 240. The Swedish and Spanish texts are also authentic.

Orientale de l'Uruguay et qui n'aura pu être réglé par les voies diplomatiques ou n'aura pas été renvoyé, soit à la décision judiciaire de la Cour permanente de Justice internationale, soit à la procédure de l'arbitrage, sera soumis à une Commission d'enquête et de conciliation constituée de la manière prévue à l'article 3.

Toutefois, si le différend présente un caractère d'acuité qui le rende susceptible d'entraîner une rupture, l'article 15 du Pacte de la Société des Nations restera applicable.

ART. 2. Dans le cas où les Hautes Parties Contractantes conviendront de porter leur différend devant un tribunal d'arbitrage, elles signeront un compromis spécial déterminant la composition du tribunal, l'étendue de ses pouvoirs, l'objet du litige, les délais, le mode de répartition des frais et la procédure.

ART. 3. La Commission de conciliation prévue à l'article 1<sup>er</sup>, est composée de la manière suivante. — Chaque Etat désignera deux membres l'un parmi ses propres nationaux, l'autre parmi les ressortissants d'un Etat tiers. — Les deux Parties désignent ensemble le président de la Commission parmi les ressortissants d'un Etat tiers. Subsidiairement, il sera fait application de celles des dispositions de l'article 45 de la Convention de la Haye de 1907, pour le règlement pacifique des conflits internationaux, qui régissent le cas où l'accord n'a pu se faire, soit entre les Parties, soit entre les arbitres désignés par elles, sur le choix d'un surarbitre.

La Commission sera constituée dans les six mois à dater de l'échange des ratifications de la présente convention.

and which it may not have been possible to settle by diplomacy or which may not have been referred either to the Permanent Court of International Justice for judicial settlement or to arbitration, shall be submitted to a Commission of investigation and conciliation, constituted in the manner specified in Article 3. If, however, the dispute is of so acute a nature as to involve the danger of a rupture, Article 15 of the Covenant of the League of Nations shall be applicable.

ART. 2. Should the High Contracting Parties agree to refer the dispute to an arbitral tribunal, they shall sign a special agreement determining the composition of such tribunal, the extent of its powers, the subject of the dispute, the time-limits allowed, the allocation of costs, and the procedure to be followed.

ART. 3. The Conciliation Commission referred to in Article 1 shall be formed in the following manner: Each State shall appoint two members, one from among its own nationals and the other from among the nationals of a third State. The two Parties shall jointly appoint the President of the Commission from among the nationals of a third State. The provisions of Article 45 of the Hague Convention of 1907 for the Pacific Settlement of International Disputes, which provide for the case where neither the Parties nor the arbitrators appointed by them have found it possible to reach an agreement regarding the choice of a third arbitrator, shall be applied if necessary.

The Commission shall be set up within six months after the ratifications of the present Convention have been exchanged.

ART. 4. Les membres de la Commission sont nommés pour trois ans. Sauf convention contraire des deux Gouvernements, ils sont inamovibles pendant la durée de leur mandat. En cas de décès ou de retraite d'un membre, il doit être pourvu à son remplacement pour le reste de la durée de son mandat dans les deux mois qui suivront et, en tout cas, dès qu'un différend aura été soumis à la Commission.

ART. 5. Si à l'expiration du mandat d'un membre de la Commission, il n'est pas pourvu à son remplacement, son mandat sera censé renouvelé pour une période de trois ans.

Un membre dont le mandat expire au cours de la procédure relative à un litige restera en fonctions, nonobstant le fait que son remplaçant aurait été désigné, jusqu'à l'achèvement de la procédure.

Sur la demande de l'une des Hautes Parties Contractantes, les fonctions du Président de la Commission prendront fin à l'expiration de son mandat, non pas toutefois au cours d'une procédure.

ART. 6. Les différends qui relèvent de la compétence de la Commission de conciliation seront déferés à son examen par la notification qui en sera faite par l'une des Parties contractantes au Président de la Commission et à la Partie adverse. Cette notification sera portée à la connaissance du Secrétaire Général de la Société des Nations. Le Président devra dans le plus bref délai possible convoquer la Commission.

ART. 7. La Commission se réunit au siège de la Société des Nations, à moins que les Parties ne lui aient assigné pour un cas par-

ART. 4. The members of the Commission shall be appointed for three years. They shall be irremovable during their term of office unless the two Governments agree otherwise. In the event of the death or resignation of a member, the vacancy must be filled for the remainder of his term of office within the next two months, and in any case this must be done as soon as a dispute is referred to the Commission.

ART. 5. If, on the expiry of his term of office, a member of the Commission has not been replaced, his term of office shall be deemed to be renewed for three years.

A member whose term of office expires in the course of proceedings relating to a dispute shall remain in office, even if his successor has been appointed, until the close of the proceedings.

On the request of one of the High Contracting Parties, the President of the Commission shall cease to hold office on the expiry of his appointed term, but not in the course of any proceedings.

ART. 6. Disputes which come within the competence of the Conciliation Commission shall be referred to it for examination by notification given by one of the Contracting Parties to the President of the Commission and to the other Party. The Secretary-General of the League of Nations shall be informed of this notification. The President shall convene the Commission at the earliest possible date.

ART. 7. The Commission shall meet at the seat of the League of Nations unless the Parties, for a particular case, decide upon some

ticulier, un autre lieu de réunion. Elle pourra, si elle le juge nécessaire, se réunir dans un autre endroit.

ART. 8. Les Hautes Parties Contractantes s'engagent à fournir à la Commission toutes informations utiles en vue de l'enquête de l'élaboration du rapport, et à lui faciliter à tous égards l'accomplissement de sa tâche.

La Commission pourra demander au Secrétaire Général de la Société des Nations de prêter son assistance à ses travaux.

ART. 9. Sous réserve du droit des Parties et de la Commission elle-même de prolonger ce délai, la Commission devra avoir achevé ses travaux dans un délai de six mois à dater du jour de sa première séance.

ART. 10. Les Parties ont le droit de se faire représenter auprès de la Commission par des agents.

Les séances de la Commission ne sont publiques qu'en vertu d'une décision de la Commission, prise dans chaque cas particulier avec l'assentiment des Parties.

ART. 11. La procédure devant la Commission est contradictoire.

Les dispositions contenues dans le Titre III de la Convention de la Haye de 1907 pour le règlement pacifique des conflits internationaux seront appliquées en ce qui concerne l'audition des témoins, la procédure par experts, les commissions rogatoires et le transport sur les lieux.

La Commission réglera les détails de la procédure non prévus ci-dessus et procédera à toutes les formalités que comporte l'administration des preuves.

ART. 12. Les décisions sont prises à la majorité des membres

other meeting-place. It may, if it thinks fit, meet elsewhere.

ART. 8. The High Contracting Parties undertake to furnish the Commission with all information which may be of use in the enquiry and the drawing up of its report, and in all respects to facilitate its task.

The Commission may apply to the Secretary-General of the League of Nations for assistance in its work.

ART. 9. The Commission shall complete its labours within six months from the day of its first meeting, unless the Parties and the Commission itself agree to an extension of this period.

ART. 10. The Parties shall be entitled to appoint agents to act as their representatives before the Commission.

The Commission's meetings shall not be public unless the Commission so decides and the Parties agree in each case.

ART. 11. In proceedings before the Commission both Parties shall be heard.

The regulations laid down in Chapter III of the Hague Convention of 1907, for the Pacific Settlement of International Disputes, shall be applied as regards the hearing of witnesses, expert enquiries, *commissions rogatoires*, and investigations on the spot.

The Commission shall settle all details of procedure not provided for above, and shall observe all the formalities necessary for the production of evidence.

ART. 12. The Commission shall take its decisions by a majority

de la Commission, la voix du Président étant prépondérante en cas de partage.

ART. 13. La Commission fera un rapport sur chaque différend qui lui aura été soumis. Le rapport comportera, s'il y a lieu, un projet de règlement du différend. L'avis motivé des membres restés en minorité sera consigné dans le rapport.

Le Président de la Commission porte immédiatement le rapport à la connaissance des Parties et du Secrétaire Général de la Société des Nations.

ART. 14. Avant le règlement d'un différend, le rapport de la Commission ne pourra être publié par l'une des Parties que si la Partie adverse y donne son assentiment.

La Commission pourra, à l'unanimité des voix, ordonner la publication immédiate de son rapport.

ART. 15. Les Hautes Parties Contractantes gardent pleine liberté d'action en ce qui concerne le différend soumis à la Commission une fois que son rapport a été présenté, sous réserve toutefois des dispositions du Pacte de la Société des Nations.

ART. 16. Chacune des Parties indemniserà les membres de la Commission nommés par elle et fournira la moitié de l'indemnité du Président.

Chaque Partie supportera les frais de procédure encourus par elle et la moitié de ceux que la Commission déclarera communs.

ART. 17. La présente convention sera ratifiée et les ratifications seront échangées à Montevideo aussitôt que faire se pourra. Elle entrera en vigueur immédiatement après l'échange des ratifications.

vote of its members, the President having a casting vote.

ART. 13. The Commission shall prepare a report on each dispute submitted to it. The report shall, if necessary, include a proposal for the settlement of the dispute. The reasoned opinion of the members who form the minority shall be recorded in the report.

The President of the Commission shall immediately communicate the report to the Parties and to the Secretary-General of the League of Nations.

ART. 14. Until the settlement of a dispute, the Commission's report may not be published by one of the Parties without the consent of the other Party.

The Commission may, by a unanimous vote, order the immediate publication of its report.

ART. 15. The High Contracting Parties reserve full liberty of action with respect to the dispute submitted to the Commission once its report has been submitted, subject, nevertheless, to the provisions of the Covenant of the League of Nations.

ART. 16. Each Party shall pay an allowance to the members of the Commission whom it has appointed, and shall provide half the President's allowance.

Each Party shall bear its own costs and half of those which the Commission may declare to be joint costs.

ART. 17. The present Convention shall be ratified, and the ratifications shall be exchanged at Montevideo as soon as possible. It shall come into force immediately after the exchange of ratifica-

Elle aura une durée de cinq années à dater de l'échange des ratifications. Si elle n'a pas été dénoncée six mois au moins avant l'expiration de ce délai, elle restera en vigueur pendant une nouvelle période de cinq ans et sera ainsi de suite censée renouvelée chaque fois pour cinq ans sauf dénonciation six mois au moins avant l'expiration de la précédente période de cinq ans.

En foi de quoi les Plénipotentiaires respectifs l'ont signée et y ont apposé leurs cachets.

Fait à Montevideo, en double exemplaire, le vingt-quatre Février mil neuf cent vingt-trois.

Carl F. Hultgren  
J. A. Buero

tions, and shall remain in force for five years from that date. Unless denounced at least six months before the expiry of this period, it shall remain in force for a further period of five years and shall thereafter be deemed to be renewed for successive periods of five years unless denounced at least six months before the expiry of the preceding period of five years.

In faith whereof the respective Plenipotentiaries have signed the present Convention and have affixed their seals thereto.

Done in duplicate at Montevideo, February the twenty-fourth, One thousand nine hundred and twenty-three.

Juan Antonio Buero  
Carl F. Hultgren

#### EXCHANGE OF NOTES

##### (1) *The Swedish Minister at Montevideo to the Foreign Minister of Uruguay*

Montevideo, le 24 Février 1923.

Monsieur le Ministre:

A l'occasion de la signature de la convention conclue entre la Suède et l'Uruguay concernant le renvoi des différends à une commission d'enquête et de conciliation, j'ai l'honneur de déclarer officiellement par la présente que le Gouvernement Suédois est d'accord avec celui de la République Orientale de l'Uruguay que, la dite convention ne devant, aux termes de son article 1<sup>er</sup>, être applicable aux différends d'ordre juridique que dans les cas où les Hautes Parties Contractantes en conviendront spécialement, elle ne sera pas davantage applicable aux différends qui viendraient à surgir entre un particulier ou une compagnie ressortissant à l'une des Parties Contractantes et le Gouvernement de l'autre Partie,

Swedish Legation.

Montevideo, February 24, 1923.

Your Excellency,

On the occasion of the signing of the Convention between Sweden and Uruguay relating to the submission of disputes to a Commission of Investigation and Conciliation, I have the honour hereby to state officially that the Swedish Government agrees with the Government of the Republic of Uruguay that inasmuch as the said Convention is not, under the terms of its first Article, to be applicable to disputes of a judicial nature unless the High Contracting Parties specially agree thereto, it shall likewise not be applicable to disputes which may arise between an individual or a company having the nationality of one of the Contracting Parties and the Government of the other Party and that, in con-

et qui conformément aux lois en vigueur dans chaque Etat, seraient soumis aux tribunaux ordinaires.

Veuillez agréer, Monsieur le Ministre, les assurances de ma plus haute considération.

Carl F. Hultgren

formity with the laws in force in each State, such disputes shall be referred to the ordinary courts.

I have the honour to be, etc.,

Carl Hultgren

His Excellency,

M. Buero,

Minister for Foreign Affairs,  
etc. etc.

(2) *The Foreign Minister of Uruguay to the Swedish Minister at Montevideo*

Montevideo, 24 de Febrero de 1923.

Señor Ministro:

Tengo el honor de acusar recibo de la note de Vuestra Excelencia de fecha 24 de Febrero del corriente año en la que Vuestra Excelencia refiriéndose a la firma del tratado convenido entre el Uruguay y Suecia sobre sometimiento de los litigios a una Comisión de encuesta y conciliación, declara oficialmente que el Gobierno Sueco está de acuerdo con el de la República Oriental del Uruguay en que dicha Convención no debiendo de acuerdo con los términos de su artículo primero, ser aplicable a los conflictos de orden jurídico más que cuando las Altas Partes Contratantes convinieran en ello especialmente, ella no será aplicable tampoco a los conflictos que vinieran a surgir entre un particular o una compañía de la nacionalidad de una de las Partes Contratantes y el Gobierno de la otra Parte, y que de conformidad con las leyes vigentes en cada Estado fueran sometidos a los tribunales ordinarios.

En respuesta, me es grato expresar a Vuestra Excelencia que este Gobierno acepta la interpretación aclaratoria del Artículo 1º en los términos que Vuestra Exce-

Ministry of Foreign Affairs.

Diplomatic Section,

312/915 (720)

Montevideo, February 24, 1923.

Sir,

I have the honour to acknowledge the receipt of your letter dated February 24, 1923, in which referring to the signing of the Convention between Uruguay and Sweden relating to the submission of disputes to a Commission of Investigation and Conciliation, you declare officially that the Swedish Government agrees with the Government of the Republic of Uruguay that inasmuch as the said Convention is not, under the terms of its first Article, to be applicable to disputes of a judicial nature unless the High Contracting Parties specially agree thereto, it shall likewise not be applicable to disputes which may arise between an individual or a company having the nationality of one of the Contracting Parties and the Government of the other Party, and that, in conformity with the laws in force in each State, such disputes shall be referred to the ordinary courts.

In reply, I have pleasure in informing you that my Government accepts your explanation of Article 5, namely that when any differences arise between an individual or company having the nationality

cia emplea, a saber que cuando las diferencias surgiesen entre un particular o una compañía de una de las Partes Contratantes y el Gobierno de la otra y cuando conformemente a las leyes de esta última el asunto fuese del resorte de sus tribunales, no será aplicable la disposición del artículo 1º.

Esta excepción, concordante en espíritu con clausula análoga incluida en los tratados de arbitraje suscriptos por el Uruguay tiene por objeto salvaguardar la jurisdicción local, por cuanto todos los residentes en el Uruguay sea cual fuere su nacionalidad están sometidos a la ley y al Tribunal Nacionales.

Reitero a Vuestra Excelencia las seguridades de mi alta consideración.

J. A. Buero

of one of the Contracting Parties and the Government of the other Party, and when in conformity with the laws of the latter Party, the matter falls within the jurisdiction of its Courts, the provisions of Article 1 shall not be applicable.

The object of this exception, which is conceived in the same spirit as a like clause included in arbitration treaties signed by Uruguay, is to safeguard local jurisdiction, inasmuch as all residents in Uruguay, whatever their nationality are subject to the national law and amenable to the jurisdiction of the national Court.

I have the honour to be, etc.,

Juan Antonio Buero  
His Excellency M. Carl Hultgren,  
Swedish Envoy Extraordinary  
and Minister Plenipotentiary.

#### PERMANENT COMMISSION OF CONCILIATION

*President appointed by both Parties*

W. STUCKI. (Swiss.)

*Members appointed by Sweden*

N. E. L. VULT VON STEYERN. (Swedish.)

J. DE RUELE. (Belgian.)

*Members appointed by Uruguay*

Vacant.

#### No. 12

#### URUGUAY-VENEZUELA: TREATY OF ARBITRATION

Signed at Montevideo February 28, 1923; ratifications exchanged June 15, 1925.

Original text from Venezuela, *Tratados Públicos y Acuerdos Internacionales, 1920-1925*, III, 48-50;<sup>1</sup> English translation from League of Nations, *Treaty Series*, XXXVI, 454-456.

(Translation)

Su Excelencia el Señor Presidente de los Estados Unidos de Venezuela y Su Excelencia el Señor Presidente de la República Oriental del Uru-

His Excellency the President of the Oriental Republic of Uruguay and His Excellency the President of the United States of Venezuela,

<sup>1</sup> See also League of Nations, *Treaty Series*, XXXVI, 452.



guay, deseosos de confirmar los vínculos amistosos que ligan a sus respectivas Naciones, han resuelto celebrar un Tratado de Arbitraje General Obligatorio, y han designado a ese efecto, por sus Plenipotenciarios, a saber:

Su Excelencia el Señor Presidente de los Estados Unidos de Venezuela al señor Doctor Pedro César Dominici, su Enviado Extraordinario y Ministro Plenipotenciario ante Su Excelencia el Señor Presidente de la República Oriental del Uruguay; y Su Excelencia el Señor Presidente de la República Oriental del Uruguay, al Señor Doctor Juan Antonio Buero, su Ministro Secretario de Estado de Relaciones Exteriores;

Quienes, después de haber cambiado sus Plenos Poderes, hallados en buena y debida forma, han convenido en lo siguiente:

ARTÍCULO 1º. Las Altas Partes contratantes se obligan a someter a juicio arbitral todas las controversias de cualquiera naturaleza que por cualquiera causa surgieren entre ellas, inclusive las relativas a la interpretación o ejecución de este Tratado, siempre que no puedan ser resueltas por negociación directa.

ART. 2º. No pueden renovarse en virtud de este Tratado las cuestiones que hayan sido objeto de arreglos definitivos entre ambas Altas Partes contratantes. En tal caso el arbitraje se limitará exclusivamente a las cuestiones que se susciten sobre validez, interpretación y cumplimiento de dichos arreglos.

ART. 3º. Para la decisión de las cuestiones que en cumplimiento de este Tratado se sometieren a arbitraje, las funciones de Arbitro serán encomendadas a un Jefe de Estado de una de las Repúblicas hispano-

desirous of strengthening the bonds of friendship between their respective countries, have decided to conclude a Treaty of General Compulsory Arbitration, and have for this purpose appointed as their Plenipotentiaries:

His Excellency the President of the Oriental Republic of Uruguay:

Dr. Juan Antonio Buero, His Minister, Secretary of State for Foreign Affairs, and

His Excellency the President of the United States of Venezuela:

Dr. Pedro Cesar Dominici, His Envoy Extraordinary and Minister Plenipotentiary to the President of the Oriental Republic of Uruguay,

Who, after exchanging their full powers, found in good and due form, have agreed as follows:

ARTICLE I. The High Contracting Parties undertake to submit to arbitration all disputes of whatever nature which may arise between them from whatever cause, including disputes concerning the interpretation or execution of the present Treaty, if such disputes cannot be settled by direct negotiation.

ART. II. Questions which have been dealt with by definitive agreements between the two High Contracting Parties may not be reopened in virtue of this Treaty. In such cases arbitration shall only be applied to questions which may arise as to the validity, interpretation or execution of the said agreements.

ART. III. For the settlement of questions to be submitted to arbitration under this Treaty, the duties of arbitrator shall be entrusted to the Head of the State of one of the Spanish-American

americanas o a un Presidente de una Corte o Tribunal Superior de Justicia hispano-americano, y en su defecto a un Tribunal formado por Jueces y peritos venezolanos, uruguayos o hispano-americanos. Si las Altas Partes contratantes no lograren acordarse en la elección del Arbitro o Arbitros, la decisión de la controversia se deferirá a la Corte Permanente de Justicia Internacional.

ART. 4°. En cada caso particular, las Altas Partes contratantes firmarán un compromiso especial que determine el Arbitro nombrado, el alcance de los Poderes de éste, la materia del litigio, los plazos, gastos y procedimientos que se fijaren.

ART. 5°. A no ser que se trate de un caso de denegación de justicia, el artículo 1° de este Tratado no será aplicable a las cuestiones que se suscitaren entre un ciudadano de una de las Altas Partes contratantes y el otro Estado, cuando los Jueces, o Tribunales de este último Estado, tengan, según su legislación, competencia para juzgar la referida cuestión. Sin embargo, podrá ser motivo de arbitraje el determinar si se trata o no de un caso de denegación de justicia.

ART. 6°. El presente Tratado permanecerá en vigor durante diez años contados desde la fecha del canje de sus ratificaciones. En caso de que doce meses antes de cumplirse dicho término, ninguna de las Altas Partes contratantes hubiese declarado su intención de hacer cesar los efectos del presente Tratado, continuará éste siendo obligatorio hasta un año después de que una u otra de las Altas Partes signatarias lo hubiesen denunciado.

Republics or to the President of a Spanish-American Tribunal or Court of Law, or, failing either of the above, to a tribunal composed of Uruguayan, Venezuelan or other Spanish-American judges and experts. Should the High Contracting Parties be unable to agree upon the choice of the arbitrator or arbitrators, the dispute shall be laid before the Permanent Court of International Justice.

ART. IV. In each individual case the High Contracting Parties shall sign a special agreement stating the name of the arbitrator selected, the scope of his powers, the subject of the dispute, and the time-limits, costs, and procedure to be fixed.

ART. V. Article I of this Treaty shall apply to all questions,<sup>1</sup> except cases of denial of justice, which may arise between a national of one of the High Contracting Parties and the other State, when the judges or courts of law of the latter are competent under its legislation to deal with the question at issue. Nevertheless, the question whether a case of denial of justice has occurred may be made the subject of arbitration.

ART. VI. The present Treaty shall remain in force for ten years from the date of the exchange of ratifications. If, twelve months before the end of this period, neither of the High Contracting Parties has announced its intention of ceasing to observe the present Treaty, the latter shall remain binding until one year after its denunciation by either of the High Contracting Parties.

<sup>1</sup> The League of Nations translation reverses the meaning of this provision, which is 'Article I . . . shall not apply to questions,' etc. Cf. the Spanish text.

ART. 7°. Este Tratado será ratificado por las Altas Partes contratantes según sus respectivas leyes y se canjearán las ratificaciones en Montevideo o en Caracas en el más breve plazo posible.

En testimonio de lo cual los Plenipotenciarios arriba indicados firman el presente Tratado, y lo sellan con sus respectivos sellos.

Hecho en dos ejemplares, en castellano, en Montevideo, a veintiocho de febrero de mil novecientos veintitrés.

Pedro César Dominici  
J. A. Buero

ART. VII. The present Treaty shall be ratified by the High Contracting Parties in accordance with their respective laws, and the ratifications shall be exchanged at Montevideo or Caracas as soon as possible.

In witness whereof the above-named Plenipotentiaries have signed the present Treaty, and have thereto affixed their seals.

Done in duplicate, in Spanish, at Montevideo on February 28, 1923.

J. A. Buero  
Pedro Cesar Dominici

### No. 13

#### PERU-VENEZUELA: TREATY OF ARBITRATION

Signed at Lima March 14, 1923; ratifications exchanged August 9, 1924.

Original text from Venezuela, *Tratados Públicos y Acuerdos Internacionales, 1920-1925*, III, 50-52; English translation made under the direction of the Bureau of International Research.

#### (Translation)

El Gobierno de los Estados Unidos de Venezuela y el Gobierno de la República del Perú, deseosos de mantener en todo tiempo las relaciones de amistad nunca interrumpidas entre las dos Naciones, han acordado establecer como medios pacíficos de resolver las controversias que en lo futuro pudieran presentarse, los que se determinan en este tratado, y, con tal fin, han nombrado sus Plenipotenciarios,

Su Excelencia el Presidente de los Estados Unidos de Venezuela al Excelentísimo señor don Nicolás Velez Goiticoa, Enviado Extraordinario y Ministro Plenipotenciario en el Perú; y

The Government of the United States of Venezuela and the Government of the Republic of Peru, desiring to maintain for all time the relations of friendship which have never been interrupted between the two Nations, have agreed to establish, as pacific means for settling disputes which may arise in the future, those which are determined in this treaty, and have for that purpose appointed as their Plenipotentiaries:

His Excellency the President of the United States of Venezuela, the Most Excellent Don Nicolás Velez Goiticoa, Envoy Extraordinary and Minister Plenipotentiary to Peru; and

Su Excelencia el Presidente de la República Peruana al Excelentísimo señor doctor don Alberto Salomón, Ministro de Relaciones Exteriores;

Quienes después de haber exhibido y canjeado sus respectivos Plenos Poderes, hallados en buena y debida forma, han convenido en los artículos siguientes:

ARTÍCULO I. En el caso en que se suscitara algún desacuerdo internacional entre las Altas Partes contratantes agotarán éstas todos sus esfuerzos para arreglarlo pacífica y directamente, pero si no lo pudieran conseguir apelarán a la resolución de uno o más árbitros nombrados por ellas.

ART. II. No serán materia de arbitraje las cuestiones que comprometan la independencia, el honor nacional o los intereses vitales de las Altas Partes contratantes o de una de ellas.

ART. III. No se considerarán comprendidas en las excepciones establecidas en el artículo anterior ni las reclamaciones pecuniarias, cualquiera que fuera su origen, ni las controversias relativas a la interpretación y aplicación de pactos que se refieran a hechos de orden exclusivamente jurídico, administrativo, económico, de comercio o de navegación, ni las originadas por denegación de justicia.

ART. IV. En cada caso particular, las Altas Partes contratantes firmarán un compromiso especial en que se haga el nombramiento del árbitro o árbitros, se determinen la materia del litigio y el procedimiento que haya de seguirse en el juicio arbitral.

ART. V. Si las Altas Partes contratantes no pudieran ponerse de acuerdo en el nombramiento de un

His Excellency the President of the Republic of Peru, the Most Excellent Señor Doctor Don Alberto Salomón, Minister of Foreign Affairs;

Who, having displayed and exchanged their respective full powers found in good and due form, have agreed on the following articles:

ARTICLE I. In case there should arise any international dispute between the High Contracting Parties they shall use every effort to settle it peaceably and directly, but if such agreement cannot be reached, they shall seek the decision of one or more arbitrators nominated by them.

ART. II. Those questions shall not be the subject of arbitration which endanger the independence, national honor, or vital interests of the High Contracting Parties or of one of them.

ART. III. There shall not be considered as included in the exceptions established in the preceding article either pecuniary claims of whatever origin, or disputes relative to the interpretation and application of agreements referring to matters of an exclusively juridical, administrative, and economic nature, of commerce or navigation, or those arising out of a denial of justice.

ART. IV. In each individual case the High Contracting Parties shall sign a special agreement appointing the arbitrator or arbitrators, and defining the matter in dispute and the procedure to be followed in arbitrating upon it.

ART. V. If the High Contracting Parties cannot reach an agreement on the appointment of a

solo árbitro, el Tribunal deberá componerse de tres: uno nombrado por cada Parte y el tercero por el Presidente de la República de los Estados Unidos del Brasil.

ART. VI. Si las Altas Partes contratantes no determinaran en el compromiso especial el procedimiento que haya de seguirse, el árbitro o árbitros nombrados señalarán las reglas a las cuales debe someterse al litigio.

ART. VII. El nombramiento de árbitros no puede recaer en ciudadanos venezolanos, ni peruanos, ni extranjeros domiciliados o residentes en Venezuela o en el Perú.

ART. VIII. El presente tratado será ratificado por ambos Gobiernos después de los trámites constitucionales de cada país, y las ratificaciones serán canjeadas en Caracas o en Lima, tan pronto como sea posible.

En fe de lo cual los respectivos Plenipotenciarios firman este tratado y lo sellan con sus sellos particulares, en doble ejemplar, en Lima, el catorce de marzo de mil novecientos veintitrés.

N. Veloz Goiticoa  
A. Salomón

single arbitrator, the Tribunal shall be composed of three, one appointed by each Party and the third by the President of the Republic of the United States of Brazil.

ART. VI. If the High Contracting Parties do not in the special agreement clearly define the procedure to be followed, the arbitrator or arbitrators appointed shall determine the rules under which the dispute shall be presented.

ART. VII. Neither Venezuelan nor Peruvian citizens, nor foreigners domiciled or residing in Venezuela or in Peru, may be appointed arbitrators.

ART. VIII. The present Treaty shall be ratified by both Governments according to the constitutional provisions of each country, and the ratifications shall be exchanged at Caracas or at Lima as soon as possible.

In witness whereof the respective Plenipotentiaries have signed this treaty and have thereto affixed their seals, in duplicate, at Lima, March 14, 1923.

N. Veloz Goiticoa  
A. Salomón

## No. 14

### AUSTRIA-HUNGARY: TREATY OF ARBITRATION

Signed at Budapest April 10, 1923; ratifications exchanged July 14, 1923.

Original text in German,<sup>1</sup> and English translation, from League of Nations, *Treaty Series*, XVIII, 94-101.

(Translation)

Das Königreich Ungarn und die Republik Österreich, deren Regierungen einander erklärt haben, dass ihre Politik sich in der Richtung

The Kingdom of Hungary and the Republic of Austria, the Governments of which have mutually declared that their policy is di-

<sup>1</sup> The Hungarian text is also authentic.

einer friedlichen Entwicklung be-  
wege und dass sie, um alles zu  
vermeiden, was dieser friedlichen  
Entwicklung hinderlich sein könnte,  
es als notwendig erkannt haben, in  
den sich ergebenden, die beiden  
Länder berührenden Fragen in  
Führung zu bleiben,

von dem Wunsche geleitet, zur  
Aufrechterhaltung und Sicherung  
des Friedens in Mittel-Europa  
beizutragen und den Grundsatz  
der obligatorischen Schiedsspre-  
chung in ihren gegenseitigen Bezie-  
hungen festzulegen,

haben sich bestimmt gefunden,  
zu diesem Behufe ein Übereinkom-  
men abzuschliessen und zu ihren  
Bevollmächtigten ernannt:

Seine Durchlaucht der Reichs-  
verweser des Königreiches Un-  
garn:

Herrn Géza Daruváry von Daru-  
vár, wirklichen Geheimen Rat, den  
mit der Leitung des königlich un-  
garischen Ministeriums des Äussern  
beauftragten königlich ungarischen  
Justizminister, und

der Bundespräsident der Repub-  
lik Österreich:

Herrn Franz Calice, ausseror-  
dentlichen Gesandten und bevoll-  
mächtigten Minister,

welche nach gegenseitiger Mit-  
teilung ihrer in guter und gehöriger  
Form befundenen Vollmachten  
über folgende Bestimmungen über-  
eingekommen sind:

ARTIKEL I. Die hohen vertrag-  
schliessenden Teile verpflichten  
sich für den Fall, dass sich künf-  
tighin zwischen ihnen eine Streit-  
frage ergeben sollte, zunächst ihre  
Bemühungen darauf zu richten,  
durch freundschaftliches Einver-  
nehmen eine Einigung zu erzielen.

Sollte jedoch die Streitfrage,  
welcher Art sie auch sein möge, auf  
diesem Wege nicht gelöst werden  
können, so ist sie im gemeinsamen

rected towards the promotion of  
peace, and that, in order to avoid  
anything which might impede the  
attainment of this object, they  
have recognised the necessity of  
keeping in close touch in regard to  
any questions which may arise af-  
fecting both countries, being ani-  
mated by a desire to contribute  
towards the maintenance and safe-  
guarding of peace in Central Eu-  
rope and to establish the principle  
of compulsory arbitration in their  
mutual relations,

have resolved to conclude an  
agreement for this purpose and  
have appointed as their plenipo-  
tentiaries:

For His Highness the Regent of  
the Kingdom of Hungary:

Councillor Geza Daruváry von  
Daruvár, Royal Hungarian Minis-  
ter of Justice, Acting Head of the  
Royal Hungarian Ministry of For-  
eign Affairs, and

For the Federal President of the  
Republic of Austria:

M. Franz Calice, Envoy Extra-  
ordinary, and Minister Plenipo-  
tentiary,

who, having communicated their  
full powers found in good and due  
form, have agreed upon the follow-  
ing provisions:

ARTICLE I. The High Contract-  
ing Parties undertake that, in the  
event of any dispute arising be-  
tween them in future, they will first  
of all endeavour to reach an agree-  
ment by means of a friendly under-  
standing.

If, however, it should prove im-  
possible in this way to settle the  
dispute, no matter what its nature  
may be, it shall be submitted, after  
an agreement has been reached by

Einvernehmen vor einen oder mehrere zu diesem Zwecke eigens ausgewählte Schiedsrichter zu bringen.

Im allgemeinen kommen als Sitz des jeweiligen Schiedsgerichtes abwechselnd Wien und Budapest in Betracht.

Aus Gründen der Zweckmässigkeit können die beiden Regierungen die Streitfrage dem Ständigen Internationalen Gerichtshof unterbreiten.

Bevor die hohen vertragschliessenden Teile sich an ein Schiedsgericht wenden, werden sie ein besonderes Übereinkommen vereinbaren, worin der Streitgegenstand und die zu entscheidenden Streitpunkte genau bezeichnet sind.

ART. 2. Die vorhergehenden Bestimmungen finden auch auf jene Streitfragen Anwendung, die ihren Ursprung in Tatsachen haben, die vor dem Abschlusse des gegenwärtigen Übereinkommens liegen.

ART. 3. Das gegenwärtige Übereinkommen wird ratifiziert und die Ratifikationen werden sobald als möglich in Budapest ausgetauscht werden. Das Übereinkommen tritt am 15. Tage nach Austausch der Ratifikationen in Kraft.

Der Wortlaut des Übereinkommens wird dem Sekretariat des Völkerbundes mitgeteilt werden.

ART. 4. Wenn einer der hohen vertragschliessenden Teile das gegenwärtige Übereinkommen kündigen sollte, so wird die Kündigung erst ein Jahr nach ihrer schriftlichen Mitteilung an den anderen vertragschliessenden Teil wirksam werden.

Urkund dessen haben die beiderseitigen Bevollmächtigten das ge-

the two Parties, to an arbitrator or arbitrators specially appointed for the purpose.

As a rule, any arbitration courts which may be set up from time to time shall sit alternately in Vienna and Budapest.

The two Governments may, if they consider it expedient refer the dispute to the Permanent Court of International Justice.

The High Contracting Parties shall not apply to a court of arbitration until they have drawn up a special agreement in which the facts of the dispute and the points to be decided are accurately stated.

ART. 2. The foregoing provisions shall also apply to disputes arising out of circumstances which occurred before the conclusion of this Agreement.

ART. 3. The present Agreement shall be ratified and the instruments of ratification shall be exchanged as soon as possible at Budapest. The Agreement shall enter into force on the fifteenth day after the exchange of the ratifications.

The text of the agreement shall be communicated to the Secretariat of the League of Nations.

ART. 4. Should one of the High Contracting Parties denounce this Agreement, the denunciation shall not come into force until one year after it has been communicated in writing to the other Contracting Party.

In faith whereof the Plenipotentiaries of both Parties have

genwärtige Übereinkommen unterzeichnet und ihre Siegel beige-drückt.

Geschehen zu Budapest am 10. April 1923, in ungarischem und deutschem Urtext in doppelter Ausfertigung.

Daruváry, m.p.  
F. Calice, m.p.

signed this Agreement and have thereto affixed their seals.

Done in duplicate at Budapest on April 10, 1923 in Hungarian and German texts authentic.

Daruváry  
F. Calice

## No. 15

### ARGENTINA-BRAZIL-CHILE-COLOMBIA-CUBA-DOMINICAN REPUBLIC-ECUADOR-GUATEMALA-HAITI-HONDURAS-NICARAGUA-PANAMA-PARAGUAY-UNITED STATES OF AMERICA-URUGUAY-VENEZUELA: TREATY OF INVESTIGATION (GONDRA CONVENTION)<sup>1</sup>

Adhered: Bolivia (*ad referendum*), Costa Rica, Mexico, Peru, and Salvador.

Signed at Santiago May 3, 1923; ratifications deposited by Brazil, October 8, 1924; Chile, September 23, 1925; Cuba, January 17, 1925; Ecuador, March 6, 1929; Haiti, August 19, 1926; Mexico, December 26, 1927; Paraguay, June 23, 1925; United States of America, May 30, 1924; Venezuela, July 17, 1925; Salvador, September 12, 1928; Guatemala, October 5, 1928; Dominican Republic, February 22, 1929; Uruguay, April 18, 1928; Peru, December 26, 1928; Costa Rica, November 23, 1928; Panama, May 23, 1928.

Original text from United States of America, *Treaty Series*, 1927, No. 752.<sup>2</sup>

The Governments represented at the Fifth International Conference of American States, desiring to strengthen progressively the principles of justice and of mutual respect which inspire the policy observed by them in their reciprocal relations, and to quicken in their peoples sentiments of concord and of loyal friendship which may contribute toward the consolidation of such relations,

Confirm their most sincere desire to maintain an immutable peace, not only between themselves but also with all the other nations of the earth;

Condemn armed peace which increases military and naval forces beyond the necessities of domestic security and the sovereignty and independence of States, and,

With the firm purpose of taking all measures which will avoid or prevent the conflicts which may eventually occur between them, AGREE to the

<sup>1</sup> Amended by Treaty of Conciliation, signed January 5, 1929, at Washington; see Annex V, a.

<sup>2</sup> See also League of Nations, *Treaty Series*, XXXIII, 36. The Portuguese, Spanish, and French texts are also authentic.



present TREATY, negotiated and concluded by the Plenipotentiary Delegates whose full powers were found to be in good and due form by the Conference:

Venezuela: César Zumeta, José Austria.

Panamá: José Lefevre.

United States of America: Henry P. Fletcher, Frank B. Kellogg, Atlee Pomerene, Willard Saulsbury, George E. Vincent, Frank C. Partridge, William Eric Fowler, Leo S. Rowe.

Uruguay: Eugenio Martínez Thedy.

Ecuador: José Rafael Bustamante.

Chile: Manuel Rivas Vicuña, Carlos Aldunate Solar, Luis Barros Borgoño, Emilio Bello Codesido, Antonio Huneeus, Alcibiades Roldán, Guillermo Subercaseaux, Alejandro del Río.

Guatemala: Eduardo Poirier, Máximo Soto Hall.

Nicaragua: Carlos Cuadra Pasos, Arturo Elizondo.

United States of Brazil: Afranio de Mello Franco, Sylvino Gurgel do Amaral, Helio Lobo.

Colombia: Guillermo Valencia.

Cuba: José C. Vidal Caro, Carlos García Vélaz, Aristides Agüero, Manuel Márquez Sterling.

Paraguay: Manuel Gondra.

Dominican Republic: Tulio M. Cestero.

Honduras: Benjamin Villaseca Mujica.

Argentina: Manuel E. Malbrán.

Haiti: Arturo Rameau.

ARTICLE I. All controversies which for any cause whatsoever may arise between two or more of the High Contracting Parties and which it has been impossible to settle through diplomatic channels, or to submit to arbitration in accordance with existing treaties, shall be submitted for investigation and report to a Commission to be established in the manner provided for in Article IV. The High Contracting Parties undertake, in case of disputes, not to begin mobilization or concentration of troops on the frontier of the other Party, nor to engage in any hostile acts or preparations for hostilities, from the time steps are taken to convene the Commission until the said Commission has rendered its report or until the expiration of the time provided for in Article VII.

This provision shall not abrogate nor limit the obligations contained in treaties of arbitration in force between two or more of the High Contracting Parties, nor the obligations arising out of them.

It is understood that in disputes arising between Nations which have no general treaties of arbitration, the investigation shall not take place in questions affecting constitutional provisions, nor in questions already settled by other treaties.

ART. II. The controversies referred to in Article I shall be submitted to the Commission of Inquiry whenever it has been impossible to settle them through diplomatic negotiations or procedure or by submission to arbitration, or in cases in which the circumstances of fact render all negotiation impossible and there is imminent danger of an armed conflict between the Parties. Any one of the Governments directly interested in the inves-

tigation of the facts giving rise to the controversy may apply for the convocation of the Commission of Inquiry and to this end it shall be necessary only to communicate officially this decision to the other Party and to one of the Permanent Commissions established by Article III.

ART. III. Two Commissions to be designated as permanent shall be established with their seats at Washington (United States of America) and at Montevideo (Uruguay). They shall be composed of the three American diplomatic agents longest accredited in said capitals, and at the call of the Foreign Offices of those States they shall organize, appointing their respective chairmen. Their functions shall be limited to receiving from the interested Parties the request for a convocation of the Commission of Inquiry, and to notifying the other Party thereof immediately. The Government requesting the convocation shall appoint at the same time the persons who shall compose the Commission of Inquiry in representation of that Government, and the other Party shall, likewise, as soon as it receives notification, designate its members.

The Party initiating the procedure established by this Treaty may address itself, in doing so, to the Permanent Commission which it considers most efficacious for a rapid organization of the Commission of Inquiry. Once the request for convocation has been received and the Permanent Commission has made the respective notifications the question or controversy existing between the Parties and as to which no agreement has been reached, will *ipso facto* be suspended.

ART. IV. The Commission of Inquiry shall be composed of five members, all nationals of American States, appointed in the following manner: each Government shall appoint two at the time of convocation, only one of whom may be a national of its country. The fifth shall be chosen by common accord by those already appointed and shall perform the duties of President. However, a citizen of a nation already represented on the Commission may not be elected. Any of the Governments may refuse to accept the elected member, for reasons which it may reserve to itself, and in such event a substitute shall be appointed, with the mutual consent of the Parties, within thirty days following the notification of this refusal. In the failure of such agreement, the designation shall be made by the President of an American Republic not interested in the dispute, who shall be selected by lot by the Commissioners already appointed, from a list of not more than six American Presidents to be formed as follows: each Government party to the controversy, or if there are more than two Governments directly interested in the dispute, the Government or Governments on each side of the controversy, shall designate three Presidents of American States which maintain the same friendly relations with all the Parties to the dispute.

Whenever there are more than two Governments directly interested in a controversy, and the interest[s] of two or more of them are identical, the Government or Governments on each side of the controversy shall have the right to increase the number of their Commissioners, as far as it may be necessary, so that both sides in the dispute may always have equal representation on the Commission.

Once the Commission has been thus organized in the capital city, seat of the Permanent Commission which issued the order of convocation, it

shall notify the respective Governments of the date of its inauguration, and it may then determine upon the place or places in which it will function, taking into account the greater facilities for investigation.

The Commission of Inquiry shall itself establish its rules of procedure. In this regard there are recommended for incorporation into said rules of procedure the provisions contained in Articles 9, 10, 11, 12 and 13 of the Convention signed in Washington, February, 1923, between the Government of the United States of America and the Governments of the Republics of Guatemala, El Salvador, Honduras, Nicaragua and Costa Rica, which appear in the appendix to this Treaty.

Its decisions and final report shall be agreed to by the majority of its members.

Each Party shall bear its own expenses and a proportionate share of the general expenses of the Commission.

ART. V. The Parties to the controversy shall furnish the antecedents and data necessary for the investigation. The Commission shall render its report within one year from the date of its inauguration. If it has been impossible to finish the investigation or draft the report within the period agreed upon, it may be extended six months beyond the period established, provided the Parties to the controversy are in agreement upon this point.

ART. VI. The findings of the Commission will be considered as reports upon the disputes, which were the subjects of the investigation, but will not have the value or force of judicial decisions or arbitral awards.

ART. VII. Once the report is in possession of the Governments parties to the dispute, six months' time will be available for renewed negotiations in order to bring about a settlement of the difficulty in view of the findings of said report; and if during this new term they should be unable to reach a friendly arrangement, the Parties in dispute shall recover entire liberty of action to proceed as their interests may dictate in the question dealt with in the investigation.

ART. VIII. The present Treaty does not abrogate analogous conventions which may exist or may in the future exist between two or more of the High Contracting Parties; neither does it partially abrogate any of their provisions, although they may provide special circumstances or conditions differing from those herein stipulated.

ART. IX. The present Treaty shall be ratified by the High Contracting Parties, in conformity with their respective constitutional procedures, and the ratifications shall be deposited in the Ministry for Foreign Affairs of the Republic of Chile, which will communicate them through diplomatic channels to the other Signatory Governments, and it shall enter into effect for the Contracting Parties in the order of ratification.

The Treaty shall remain in force indefinitely; any of the High Contracting Parties may denounce it and the denunciation shall take effect as regards the Party denouncing one year after notification thereof has been given.

Notice of the denunciation shall be sent to the Government of Chile, which will transmit it for appropriate action to the other Signatory Governments.

**ART. X.** The American States which have not been represented in the Fifth Conference may adhere to the present Treaty, transmitting the official documents setting forth such adherence to the Ministry for Foreign Affairs of Chile, which will communicate it to the other Contracting Parties.

In witness whereof, the Plenipotentiaries and Delegates sign this Convention in Spanish, English, Portuguese and French and affix the seal of the Fifth International Conference of American States, in the city of Santiago, Chile, on the 3rd day of May in the year one thousand nine hundred and twenty three.

This Convention shall be filed in the Ministry for Foreign Affairs of the Republic of Chile in order that certified copies thereof may be forwarded through diplomatic channels to each of the Signatory States.

(Signed) For Venezuela: C. Zumeta, José Austria; for Panamá: J. E. Lefevre; for the United States of America: Henry P. Fletcher, Frank B. Kellogg, Atlee Pomerene, Willard Saulsbury, George E. Vincent, Frank C. Partridge, William Eric Fowler, L. S. Rowe; for Uruguay: Eugenio Martínez Thedy, with reservations relative to the provisions of Article I, (first) in so far as they exclude from the investigation questions that affect constitutional provisions; for Ecuador: José Rafael Bustamante; for Chile: Manuel Rivas Vicuña, Carlos Aldunate S., L. Barros B., Emilio Bello C., Antonio Huneeus, Alcibiades Roldán, Guillermo Subercaseaux, Alejandro del Río; for Guatemala: Eduardo Poirier, Máximo Soto Hall; for Nicaragua: Carlos Cuadra Pasos, Arturo Elizondo; for the United States of Brazil: Afranio de Mello Franco, S. Gurgel do Amaral, Helio Lobo; for Colombia: Guillermo Valencia; for Cuba: J. C. Vidal Caro, Carlos García Vélaz, A. de Agüero, M. Márquez Sterling; for Paraguay: M. Gondra; for the Dominican Republic: Tulio M. Cestero; for Honduras: Benjamin Villaseca M.; for the Argentine Republic: Manuel E. Malbrán; for Hayti: Arthur Rameau.

#### APPENDIX

**ARTICLE I.** The Signatory Governments grant to all the Commissions which may be constituted the power to summon witnesses, to administer oaths and to receive evidence and testimony.

**ART. II.** During the investigation the Parties shall be heard and may have the right to be represented by one or more agents and counsel.

**ART. III.** All members of the Commission shall take oath duly and faithfully to discharge their duties before the highest judicial authority of the place where it may meet.

**ART. IV.** The Inquiry shall be conducted so that both Parties shall be heard. Consequently, the Commission shall notify each Party of the statements of facts submitted by the other, and shall fix periods of time in which to receive evidence.

Once the Parties are notified, the Commission shall proceed to the investigation, even though they fail to appear.

**ART. V.** As soon as the Commission of Inquiry is organized, it shall at the request of any of the Parties to the dispute, have the right to fix the status in which the Parties must remain, in order that the situation may

not be aggravated and matters may remain in *statu quo* pending the rendering of the report by the Commission.

#### COMMISSIONS OF INVESTIGATION

(Not permanent)

The Convention provides for two permanent committees, one at Washington and the other at Montevideo, composed of the three American diplomatic agents longest accredited in said capitals. These committees can be called upon to form a Commission of Investigation of five members if a case arises.<sup>1</sup>

### No. 16

#### AUSTRIA-POLAND: TREATY OF ARBITRATION

Signed at Warsaw November 13, 1923; ratifications exchanged February 26, 1925; abrogated May 2, 1927.<sup>2</sup>

Original text from Poland, *Dziennik Ustaw, Rzeczypospolitej Polskiej*, 1925, No. 47; <sup>3</sup>

English translation from League of Nations, *Treaty Series*, XXXIV, 401-403.

(Translation)

La République Polonaise et la République d'Autriche désirant régler autant que possible par la voie de l'arbitrage les différends qui pourraient s'élever entre Elles, ont décidé de conclure à cet effet une convention et ont nommé pour leurs Plénipotentiaires, savoir:

Le Président de la République Polonaise:

Monsieur Marjan Seyda, Sous-Secrétaire d'État, ancien Ministre des Affaires Étrangères;

Le Président fédéral de la République d'Autriche:

Monsieur Nicolas Post, Envoyé Extraordinaire et Ministre Plénipotentiaire d'Autriche à Varsovie;

lesquels, après s'être communiqué leurs pleins pouvoirs trouvés en bonne et due forme, sont convenus des articles suivants:

ARTICLE 1<sup>er</sup>. Les Hautes Parties Contractantes s'engagent, dans le

The Polish Republic and the Austrian Republic, being desirous to settle as far as possible by means of arbitration the disputes which may arise between them, have decided to conclude a Convention to that effect and have nominated as their Plenipotentiaries, to wit:

The President of the Polish Republic:

M. Marjan Seyda, Under-Secretary of State, former Minister for Foreign Affairs;

The President of the Austrian Federal<sup>4</sup> Republic:

M. Nicolas Post, Envoy Extraordinary and Minister Plenipotentiary of Austria at Warsaw;

who, after having communicated to one another their full powers, found in good and due form, have agreed upon the following articles:

ARTICLE 1. The High Contracting Parties undertake, in the event

<sup>1</sup> Amended by Treaty of Conciliation signed January 5, 1929, at Washington; see Annex V, a.

<sup>2</sup> See Art. 21, par. 3, of No. 62, *infra*.

<sup>3</sup> See also League of Nations, *Treaty Series*, XXXIV, 400.

<sup>4</sup> The word 'Federal' is misplaced. Cf. the French text.

cas, où des questions litigieuses surgiraient dans l'avenir entre Elles, à tâcher de se mettre d'accord par l'entente à l'amiable.

Si, toutefois, cette entente n'avait pu être réalisée, les Hautes Parties Contractantes s'engagent à soumettre à l'arbitrage tous les différends relatifs aux questions suivantes:

(1) contestations concernant l'application ou l'interprétation de toute convention conclue ou à conclure entre Elles;

(2) contestations concernant les réclamations pécuniaires présentées par l'une des Hautes Parties Contractantes du chef de dommages, lorsque le principe de l'indemnité est reconnu par les Parties.

Les dispositions du présent article recevront leur application même si les contestations qui viendraient à s'élever avaient leur origine dans les faits antérieurs à la conclusion de la présente Convention.

Les dispositions du présent article ne s'appliquent pas aux conventions auxquelles des tierces Puissances auraient participé ou adhéré.

ART. 2. Les stipulations relatives à l'arbitrage, qui figurent dans les conventions déjà conclues entre les deux États Contractants ou dans celles dont ils font Partie, subsistent indépendamment de la présente Convention.

ART. 3. Lorsqu'il y aura lieu à un arbitrage entre Elles, les Hautes Parties Contractantes s'engagent à arriver dans un délai de trois mois au plus tard à un compromis spécial, concernant l'objet de litige ainsi que les modalités de la procédure. À défaut de clauses compromissoires contraaires, elles se conformeront, pour tout ce qui concerne la désignation des arbitres et la procédure arbitrale, aux disposi-

of any litigious questions arising between them in future, to endeavour to reach a settlement by friendly agreement.

If, however, such agreement cannot be reached, the High Contracting Parties undertake to submit to arbitration all disputes concerning the following questions:

(1) Disputes regarding the application or interpretation of any convention which has been or may be concluded between them.

(2) Disputes concerning pecuniary claims for compensation submitted by one of the High Contracting Parties, when both Parties are agreed in the principle of compensation.

The provisions of the present article shall take effect even if the disputes arising have their origin in facts which occurred before the conclusion of the present Convention.

The provisions of the present article shall not apply to conventions to which third Powers may be Parties or to which they may have adhered.

ART. 2. The stipulations concerning arbitration contained in conventions already concluded between the two States, or in conventions to which they are signatories, shall remain in force independently of the present Convention.

ART. 3. Should the necessity for arbitration proceedings arise between them, the High Contracting Parties undertake to conclude, within three months at the latest, a special agreement concerning the subject of the dispute and the method of procedure. Unless there are any arbitration clauses to the contrary, they shall, as regards everything connected with the appointment of arbitrators and arbi-

tions établies par la Convention signée à la Haye, le 18 Octobre 1907, pour le règlement pacifique des conflits internationaux.

ART. 4. La présente Convention est conclue pour la durée de trois ans. Elle entrera en vigueur le quinzième jour après l'échange des ratifications. Dans le cas où aucune des Hautes Parties Contractantes n'aurait notifié, six mois avant la fin de ladite période, son intention d'en faire cesser les effets, la Convention demeurera obligatoire jusqu'à l'expiration d'une année à partir du jour où l'une des Hautes Parties Contractantes l'aura dénoncée.

ART. 5. La présente Convention sera ratifiée et les ratifications seront échangées à Varsovie.

En Foi de Quoi, les Plénipotentiaires ont signé la présente Convention et l'ont revêtue de leurs cachets.

Fait à Varsovie, en double expédition, le 13 Novembre 1923.

M. Seyda  
Post

tral procedure, conform to the Convention signed at The Hague on October 18, 1907, for the pacific settlement of international disputes.

ART. 4. The present Convention is concluded for a term of three years. It shall come into force on the fifteenth day after the exchange of ratifications. In case neither Contracting Party should give notice six months before the expiration of that period of its intention to terminate the Convention, it will continue binding until the expiration of one year from the day when either Contracting Party shall have denounced it.

ART. 5. The present Convention shall be ratified and the ratifications shall be exchanged at Warsaw.

In witness whereof the Plenipotentiaries have signed the present Convention and have attached thereto their seals.

Done at Warsaw, in duplicate, on the thirteenth day of November nineteen hundred and twenty-three.

M. Seyda  
Post

## No. 17

### SWEDEN-SWITZERLAND: TREATY OF CONCILIATION

Signed at Stockholm June 2, 1924; ratifications exchanged February 14, 1925.

Original text from Switzerland, *Recueil des Lois fédérales*, 1925, No. 7; <sup>1</sup> English translation from League of Nations, *Treaty Series*, XXXIII, 201-207.

(Translation)

Le Conseil Fédéral Suisse et Sa Majesté le Roi de Suède animés du désir de resserrer les liens d'amitié qui unissent la Suisse et la Suède et

The Swiss Federal Council and His Majesty the King of Sweden, being desirous of strengthening the ties of friendship which unite Swit-

See also League of Nations, *Treaty Series*, XXXIII, 200.

de favoriser, dans l'intérêt de la paix générale, le développement de la procédure de conciliation appliquée aux différends internationaux,

décidés à donner, dans les rapports entre les deux pays, la plus large application possible aux principes consacrés par la Résolution de l'Assemblée de la Société des Nations, en date du 22 septembre 1922, relative à l'institution de commissions de conciliation entre Etats,

ont résolu de conclure, à cet effet, un traité et ont désigné leurs Plénipotentiaires, savoir:

Le Conseil Fédéral Suisse:

Monsieur Henri Schreiber, Envoyé extraordinaire et Ministre plénipotentiaire de la Confédération Suisse à Stockholm;

Sa Majesté le Roi de Suède:

Monsieur le Baron Erik Marks von Würtemberg, Son Ministre des Affaires Etrangères,

lesquels, après s'être fait connaître leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Les Parties contractantes s'engagent à soumettre à une Commission permanente de conciliation tous les différends s'élevant entre elles qui n'auraient pu être résolus par la voie diplomatique et ne seraient pas susceptibles d'un règlement judiciaire au sens de l'article 36, alinéa 2, du Statut de la Cour permanente de Justice internationale.

Il appartiendra à chacune des Parties de décider du moment à partir duquel la procédure de conciliation pourra être substituée aux négociations diplomatiques.

Les Parties contractantes peuvent convenir qu'un différend qui serait susceptible d'un règlement

zerland and Sweden and of encouraging in the interests of general peace the development of the procedure of conciliation as applied to international disputes; and

Being determined to give the widest possible application, in the relations between the two countries, to the principles laid down by the Resolution of the Assembly of the League of Nations, dated September 22, 1922, relating to the establishment of commissions of conciliation between States;

Have resolved to conclude a Treaty for this purpose and have appointed as their Plenipotentiaries:

The Swiss Federal Council:

M. Henri Schreiber, Envoy Extraordinary and Minister Plenipotentiary of the Swiss Confederation at Stockholm, and

His Majesty the King of Sweden: Baron Erik Marks von Würtemberg, Minister for Foreign Affairs,

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1. The Contracting Parties undertake to submit to a Permanent Conciliation Commission any disputes that may arise between them and which it may not have been possible to settle through the diplomatic channel, and which shall not be capable of judicial settlement under Article 36, paragraph 2, of the Statute of the Permanent Court of International Justice.

Each Contracting Party shall be free to decide at what period the procedure of conciliation may be substituted for diplomatic negotiations.

The Contracting Parties may agree that a dispute which is capa-



judiciaire au sens de l'article 36, alinéa 2, du Statut de la Cour permanente de Justice internationale soit préalablement déféré à la procédure de conciliation.

ART. 2. La Commission permanente de conciliation se compose de cinq membres.

Les Parties contractantes nomment chacune un membre à leur gré et désignent les trois autres d'un commun accord. Ces trois membres ne doivent ni être des ressortissants des Etats contractants, ni avoir leur domicile sur leur territoire ou se trouver à leur service.

Le Président de la Commission est nommé d'un commun accord parmi les membres désignés en commun.

La Commission sera constituée dans les six mois qui suivront l'échange des ratifications du présent traité.

Si la nomination des membres à désigner en commun ou du président n'intervient pas dans les six mois à compter de l'échange des ratifications ou, en cas de retraite ou de décès, dans les deux mois à compter de la vacance du siège, les nominations seront effectuées, à la demande d'une seule des Parties, par le Président de la Cour permanente de Justice internationale ou, si celui-ci est ressortissant de l'un des Etats contractants, par le Vice-président de la Cour.

ART. 3. Les membres de la Commission sont nommés pour trois ans. Sauf accord contraire entre les Parties contractantes, ils ne pourront être révoqués pendant la durée de leur mandat. En cas de décès ou de retraite d'un membre, il devra être pourvu à son remplacement pour le reste de la durée de son mandat.

ble of judicial settlement under Article 36, paragraph 2, of the Statute of the Permanent Court of International Justice shall be previously submitted to the procedure of conciliation.

ART. 2. The Permanent Conciliation Commission shall be composed of five members.

Each Contracting Party shall nominate one member of its own choosing, the other three being appointed by joint agreement. The latter may not be nationals of the Contracting States, nor be domiciled in their territory, nor be employed in their service.

The President of the Commission shall be appointed by joint agreement from among the jointly selected members.

The Commission shall be set up within six months after the ratifications of the present Treaty have been exchanged.

If the appointment of the members to be nominated jointly or of the President is not made within six months from the exchange of ratifications or, in the event of resignation or death, within two months after the vacancy occurs, these appointments shall be made at the request of either Party by the President of the Permanent Court of International Justice, or, if the latter is a national of one of the Contracting States, by the Vice-President of the Court.

ART. 3. The members of the Commission shall be appointed for three years. Their appointment shall not be revoked during the term of their mandate, unless the Contracting Parties decide otherwise. In the event of the death or resignation of a member, arrangements shall be made to replace him for the remainder of his mandate.

Si le mandat d'un membre désigné d'un commun accord expire sans qu'aucune des Parties s'oppose à son renouvellement, il est censé renouvelé pour une nouvelle période de trois ans. De même, si, à l'expiration du mandat d'un membre désigné par l'une des Parties, il n'a pas été pourvu à son remplacement, son mandat sera censé renouvelé pour trois ans.

Un membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part à l'examen du différend jusqu'à clôture de la procédure.

ART. 4. Dans les quinze jours qui suivent la notification d'une demande de conciliation à la Commission permanente, chacune des Parties pourra remplacer le membre librement désigné par elle par une personne possédant une compétence spéciale dans la matière qui fait l'objet du différend.

La Partie qui entendrait user de ce droit en avertira immédiatement la Partie adverse; dans ce cas, celle-ci pourra user du même droit dans un délai de quinze jours à compter de la notification qu'elle a reçue.

ART. 5. La Commission permanente de conciliation a pour tâche de faciliter la solution du différend, en éclaircissant, par un examen impartial et consciencieux, les questions de fait et en formulant des propositions en vue du règlement de la contestation.

Elle est saisie sur requête adressée à son président par l'une des Parties contractantes.

Notification de cette requête sera faite en même temps à la Partie adverse par la Partie qui demande l'ouverture de la procédure de conciliation.

If the mandate of a member selected by joint agreement shall expire, and if neither Party is opposed to its renewal, it shall be deemed to be renewed for a further period of three years. Similarly, if, on the expiry of the mandate of a member appointed by one of the Parties, no arrangements have been made to replace him, his mandate shall be deemed renewed for three years.

A member whose mandate expires in the course of a procedure shall continue to take part in the examination of the dispute until the procedure is completed.

ART. 4. Within the fortnight following the notification of a request for conciliation to the Permanent Commission, either Party may replace the member of its own choosing by a person possessing special competence in the matter which forms the subject of the dispute.

The Party which intends to make use of this right shall immediately notify the opposing Party. In this case, the latter may make use of the same right within a fortnight after receiving the notification.

ART. 5. The task of the Permanent Conciliation Commission shall be to further the settlement of disputes by an impartial and conscientious examination of the facts and by formulating proposals with a view to settling the case.

The Commission shall be seized of a question by an application addressed to its President by one of the Contracting Parties.

This application shall be notified at the same time to the opposing Party by the Party which is requesting the institution of the procedure of conciliation.

ART. 6. La Commission se réunira, sauf convention contraire, au lieu désigné par son président.

ART. 7. Les Parties contractantes ont le droit de nommer auprès de la Commission, des agents spéciaux qui serviront, en même temps, d'intermédiaires entre elles et la Commission.

ART. 8. Les Parties contractantes s'engagent à faciliter dans la plus large mesure possible, les travaux de la Commission et, en particulier, à user de tous les moyens dont elles disposent, d'après leur législation intérieure, pour lui permettre de procéder, sur leur territoire, à la citation et à l'audition de témoins ou d'experts ainsi qu'à des descentes sur les lieux.

ART. 9. Les délibérations de la Commission ont lieu à huis clos, à moins que la Commission, d'accord avec les Parties, n'en décide autrement.

ART. 10. La procédure devant la Commission est contradictoire.

La Commission réglera elle-même la procédure en tenant compte, sauf décision contraire prise à l'unanimité, des dispositions contenues au titre III de la Convention de La Haye pour le règlement pacifique des conflits internationaux, du 18 octobre 1907.

ART. 11. Sauf disposition contraire du présent traité, les décisions de la Commission sont prises à la majorité simple des voix.

La Commission peut délibérer valablement si tous les membres

ART. 6. The Commission shall meet at the place chosen by the President, unless there is an agreement to the contrary.

ART. 7. The Contracting Parties shall be entitled to appoint special agents on<sup>1</sup> the Commission, who shall also act as intermediaries between the Parties and the Commission.

ART. 8. The Contracting Parties undertake to give the Commission all possible assistance in its work and, in particular, to employ all the means placed at their disposal by their domestic legislation to enable it to call and hear witnesses or experts within their territory as well as to carry out investigations on the spot.

ART. 9. The deliberations of the Commission shall be held in private, unless, in agreement with the Parties, the Commission decides otherwise.

ART. 10. In proceedings before the Commission both Parties shall be heard.

The Commission shall draw up rules to govern its procedure, subject to the proviso that the regulations laid down in Chapter III of the Hague Convention of October 18, 1907, for the pacific settlement of international disputes shall be applied, unless the Commission unanimously agrees to depart from these regulations.

ART. 11. The Commission shall take its decisions by a majority vote of its members, except where otherwise laid down in the present Treaty.

A quorum shall be constituted if

<sup>1</sup> The meaning is 'to represent them before.' Cf. the French text. The same error is made in the translation of the corresponding article of several similar treaties, printed below.

ont été dûment convoqués et si le président et au moins deux autres membres sont présents.

ART. 12. La Commission présentera son rapport dans les six mois à compter du jour où elle aura été saisie du différend, à moins que les Parties contractantes ne décident, d'un commun accord, d'abréger ou de proroger ce délai.

L'avis motivé des membres restés en minorité sera consigné dans le rapport.

Un exemplaire du rapport sera remis à chacune des Parties.

Le rapport n'a, ni en ce qui concerne l'exposé des faits, ni en ce qui concerne les considérations juridiques, le caractère d'une sentence arbitrale.

Il appartiendra aux Parties de décider d'un commun accord si le rapport de la Commission peut être publié immédiatement.

ART. 13. La Commission permanente de conciliation fixera le délai dans lequel les Parties auront à se prononcer à l'égard de ses propositions. Ce délai n'excédera pas toutefois la durée de trois mois.

ART. 14. Pendant la durée effective de la procédure, les membres de la Commission de conciliation reçoivent une indemnité dont le montant sera arrêté entre les Parties contractantes.

Chaque Partie supporte ses propres frais et une part égale des frais de la Commission.

ART. 15. Durant le cours de la procédure de conciliation, les Parties contractantes s'abstiendront de tout acte pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission permanente de conciliation.

all the members have been duly summoned and if the President and not less than two other members are present.

ART. 12. The Commission shall make its report within six months from the day on which the dispute is submitted to it, unless the Contracting Parties agree to a curtailment or extension of this period.

The report shall contain the reasoned opinion of the members who form the minority.

A copy of the report shall be sent to each Party.

The report shall not be in the nature of an arbitral award, as regards either the statement of facts or the legal considerations.

The Parties shall decide in agreement with one another whether the Commission's report shall be immediately published.

ART. 13. The Permanent Conciliation Commission shall fix the period within which the Parties will be required to take their decision as regards the Commission's proposal. This period shall not, however, exceed three months.

ART. 14. For the actual duration of the procedure, the members of the Conciliation Commission shall receive an allowance to be fixed by arrangement between the Contracting Parties.

Each Party shall bear its own costs and half the costs of the Commission.

ART. 15. During the procedure of conciliation, the Contracting Parties shall abstain from all measures which might prejudicially affect the acceptance of the proposals of the Permanent Conciliation Commission.

ART. 16. Le présent traité sera ratifié et les instruments de ratification en seront échangés à Stockholm dans le plus bref délai possible.

Le traité est conclu pour la durée de dix ans à compter de l'échange des ratifications. S'il n'est pas dénoncé six mois au moins avant l'expiration de ce terme, il demeure en vigueur pour une nouvelle période de cinq ans, et ainsi de suite.

En foi de quoi, les Plénipotentiaires ont signé le présent traité et l'ont revêtu de leurs sceaux.

Fait en double exemplaire, à Stockholm, le 2 juin 1924.

Schreiber

E. Marks von Würtemberg

ART. 16. The present Treaty shall be ratified and the ratifications shall be exchanged at Stockholm as soon as possible.

The Treaty is concluded for a period of ten years from the date of the exchange of ratifications. Unless denounced at least six months before the expiration of this period, it shall remain in force for a further period of five years, and similarly thereafter

In faith whereof, the Plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

Done in duplicate, at Stockholm, on June 2, 1924.

Schreiber

E. Marks von Würtemberg

#### PERMANENT COMMISSION OF CONCILIATION

(Appointed December 1, 1925)

#### *President appointed by both Parties*

COUNT H. CARTON DE WIART, Minister of State. (*Belgian.*)

#### *Members appointed by both Parties*

GILBERT MURRAY, Professor at the University of Oxford. (*English.*)

W. SIMONS, President of the German Reichsgericht. (*German.*)

#### *Member appointed by Sweden*

BARON F. RAMEL, Governor of Malmö, former Swedish Minister to Norway and Germany. (*Swedish.*)

#### *Member appointed by Switzerland*

EMIL LOHNER, Member of the Swiss National Council. (*Swiss.*)

## No. 18

## DENMARK-SWITZERLAND: TREATY OF CONCILIATION

Signed at Copenhagen June 6, 1924; ratifications exchanged May 18, 1925.

Original text from Switzerland, *Recueil des Lois fédérales*, XLI, 1925, No. 13; <sup>1</sup> English translation from League of Nations, *Treaty Series*, XXXIV, 177-183.

(Translation)

Le Conseil Fédéral Suisse et Sa Majesté le Roi de Danemark et d'Islande animés du désir de resserrer les liens d'amitié qui unissent la Suisse et le Danemark et de favoriser, dans l'intérêt de la paix générale, le développement de la procédure de conciliation appliquée aux différends internationaux;

décidés à donner, dans les rapports entre les deux pays, la plus large application possible aux principes consacrés par la Résolution de l'Assemblée de la Société des Nations, en date du 22 septembre 1922, relative à l'institution de commissions de conciliation entre Etats;

ont résolu de conclure, à cet effet, un Traité et ont désigné leurs Plénipotentiaires, savoir:

Le Conseil Fédéral Suisse:

Monsieur Henri Schreiber, Envoyé extraordinaire et Ministre Plénipotentiaire de la Confédération Suisse auprès de Sa Majesté le Roi de Danemark, et

Sa Majesté le Roi de Danemark et d'Islande:

Son Ministre des Affaires Etrangères, le Comte Carl Poul Oscar Moltke,

lesquels, après s'être fait connaître leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Les Parties contractantes s'engagent à soumettre

His Majesty the King of Denmark and Iceland and the Council Federal Swiss, being desirous of strengthening the ties of friendship which unite Switzerland and Denmark and of encouraging, in the interests of general peace, the development of the procedure of conciliation as applied to international disputes, and being determined, in the relations between the two countries, to give the widest application possible to the principles laid down in the resolution of the Assembly of the League of Nations, dated September 22, 1922, relating to the establishment of commissions of conciliation between States, have resolved to conclude a Treaty for this purpose and have appointed as their Plenipotentiaries:

His Majesty the King of Denmark and Iceland:

Count Carl Poul Oscar Moltke, His Minister for Foreign Affairs,

The Swiss Federal Council:

M. Henri Schreiber, Envoy Extraordinary and Minister Plenipotentiary of the Swiss Confederation to His Majesty the King of Denmark,

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1. The Contracting Parties undertake to submit to a

<sup>1</sup> See also League of Nations, *Treaty Series*, XXXIV, 176.

à une Commission permanente de conciliation tous les différends s'élevant entre elles qui n'auraient pu être résolus par la voie diplomatique et ne seraient pas susceptibles d'un règlement judiciaire ou arbitral conformément à l'article 36, alinéa 2, du Statut de la Cour permanente de Justice internationale ou conformément à toute autre Convention internationale en vigueur entre les Parties contractantes.

Il appartiendra à chacune des Parties de décider du moment à partir duquel la procédure de conciliation pourra être substituée aux négociations diplomatiques.

Les Parties contractantes peuvent convenir qu'un différend qui serait susceptible d'un règlement judiciaire ou arbitral soit préalablement déferé à la procédure de conciliation.

ART. 2. La Commission permanente de conciliation se compose de cinq membres.

Les Parties contractantes nomment chacune un membre à leur gré et désignent les trois autres d'un commun accord. Ces trois membres ne doivent ni être des ressortissants des Etats contractants, ni avoir leur domicile sur leur territoire ou se trouver à leur service.

Le Président de la Commission est nommé d'un commun accord parmi les membres désignés en commun.

La Commission sera constituée dans les six mois qui suivront l'échange des ratifications du présent Traité.

Si la nomination des membres à désigner en commun ou du Président n'intervient pas dans les six mois à compter de l'échange des ratifications ou, en cas de retraite ou de décès, dans les deux

Permanent Conciliation Commission any disputes that may arise between them and which it may not have been possible to settle by the diplomatic channel, and which shall not be capable of judicial or arbitral settlement in accordance with Article 36, paragraph 2, of the Statute of the Permanent Court of International Justice, or in conformity with any other international convention in force between the Contracting Parties.

Each of the Contracting Parties shall be free to decide at what period the procedure of conciliation may be substituted for diplomatic negotiations.

The Contracting Parties may agree that a dispute which is capable of judicial or arbitral settlement shall be previously submitted to the procedure of conciliation.

ART. 2. The Permanent Conciliation Commission shall be composed of five members.

Each Contracting Party shall nominate one member of its own choosing, the other three being appointed by joint agreement. The latter may not be nationals of the Contracting States, nor be domiciled in their territory, nor be employed in their service.

The President of the Commission shall be appointed by joint agreement from among the jointly selected members.

The Commission shall be set up within six months of the exchange of ratifications of the present Treaty.

If the appointment of the members to be nominated jointly is not made within this period, or, in case of resignation or death, within three months after the vacancy occurs, the Contracting Parties shall each appoint one of these

mois à compter de la vacance du siège, les Parties contractantes nomment chacune un de ces membres remplissant les conditions prévues au 2<sup>e</sup> alinéa, tandis que la nomination du Président est effectuée, au besoin, à la demande d'une seule des Parties, par le Président de la Cour permanente de Justice internationale ou, si celui-ci est ressortissant de l'un des États contractants, par le Vice-président ou par le membre le plus âgé de la Cour qui n'est pas ressortissant de l'un des États contractants.

ART. 3. Les membres de la Commission sont nommés pour trois ans. Sauf accord contraire entre les Parties contractantes, ils ne pourront être révoqués pendant la durée de leur mandat.

Si le mandat d'un membre désigné d'un commun accord expire sans qu'aucune des Parties s'oppose à son renouvellement, le mandat est censé renouvelé pour une nouvelle période de trois ans. De même, si, à l'expiration du mandat d'un membre désigné par l'une des Parties, cette Partie n'a pas pourvu à son remplacement, son mandat sera censé renouvelé pour trois ans.

Un membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part à l'examen du différend jusqu'à clôture de la procédure.

ART. 4. Dans les quinze jours qui suivent la notification d'une demande de conciliation à la Commission permanente, chacune des Parties pourra remplacer le membre librement désigné par elle conformément au 2<sup>e</sup> alinéa de l'article 2 par une personne possédant une compétence spéciale dans la matière qui fait l'objet du différend.

members satisfying the conditions laid down in paragraph 2, while the appointment of the President shall, if necessary, be made on the request of either Party by the President of the Permanent Court of International Justice, or, if the latter is a national of one of the Contracting States, by the Vice-President or by the oldest member of the Court who is not a national of one of the Contracting States.

ART. 3. The members of the Commission shall be appointed for three years. Their appointment shall not be revoked during the term of their mandate, unless the Contracting Parties decide otherwise.

If the mandate of a member appointed by joint agreement expires, and if neither Party is opposed to its renewal, the mandate shall be deemed to be renewed for a further period of three years. Similarly, if, on the expiration of the mandate of a member chosen by one Party, this Party has not arranged for his replacement, his mandate shall be deemed to have been renewed for three years.

A member whose mandate expires during a procedure shall continue to take part in the examination of the dispute until the procedure is completed.

ART. 4. Within the fortnight following the notification of a request for conciliation to the Permanent Commission, each Party may replace the member freely chosen by itself under paragraph 2 of Article 2 by a person possessing special competence in the matter which forms the subject of the dispute.



La Partie qui entendrait user de ce droit en avertira immédiatement la Partie adverse; dans ce cas, celle-ci pourra user du même droit dans un délai de quinze jours à compter de la notification qu'elle a reçue.

ART. 5. La Commission permanente de conciliation a pour tâche de faciliter la solution du différend, en éclaircissant, par un examen impartial et consciencieux, les questions de fait et en formulant des propositions en vue du règlement de la contestation.

Elle est saisie sur requête adressée à son Président par l'une des Parties contractantes.

Notification de cette requête sera faite en même temps à la Partie adverse par la Partie qui demande l'ouverture de la procédure de conciliation.

ART. 6. La Commission se réunira, sauf convention contraire, au lieu désigné par son Président.

ART. 7. Les Parties contractantes ont le droit de nommer, auprès de la Commission, des agents spéciaux qui serviront, en même temps, d'intermédiaires entre elles et la Commission.

ART. 8. Les Parties contractantes s'engagent à faciliter, dans la plus large mesure possible, les travaux de la Commission et, en particulier, à user de tous les moyens dont elles disposent, d'après leur législation intérieure, pour lui permettre de procéder, sur leur territoire, à la citation et à l'audition de témoins ou d'experts ainsi qu'à des descentes sur les lieux.

ART. 9. Les délibérations de la Commission ont lieu à huis clos, à moins que la Commission, d'accord

The Party which intends to make use of this right shall immediately notify the opposing Party. In this case, the latter may make use of the same right within a fortnight of receiving the notification.

ART. 5. The task of the Permanent Conciliation Commission shall be to further the settlement of disputes by an impartial and conscientious examination of the facts and by formulating proposals with a view to settling the case.

The Commission shall be seized of a question by an application addressed to its President by one of the Contracting Parties.

This application shall be notified at the same time to the opposing Party by the Party which is requesting the institution of the procedure of conciliation.

ART. 6. The Commission shall meet at the place chosen by the President, unless there is an agreement to the contrary.

ART. 7. The Contracting Parties shall be entitled to appoint special agents on<sup>1</sup> the Commission; these agents shall also act as intermediaries between the Parties and the Commission.

ART. 8. The Contracting Parties undertake to give all possible assistance to the Commission in its work, and, in particular, to employ all the means placed at their disposal by their domestic legislation to enable it to call and hear witnesses or experts within their territory, as well as to carry out investigations on the spot.

ART. 9. The deliberations of the Commission shall be held in private, unless in agreement with the

avec les Parties, n'en décide autrement.

Parties the Commission decides otherwise.

ART. 10. La procédure devant la Commission est contradictoire.

ART. 10. In proceedings before the Commission both Parties shall be heard.

La Commission réglera elle-même la procédure en tenant compte, sauf décision contraire prise à l'unanimité, des dispositions contenues au titre III de la Convention de La Haye pour le règlement pacifique des conflits internationaux, du 18 octobre 1907.

The Commission shall draw up its own rules of procedure, regard being had to the regulations laid down in Title III of the Hague Convention of October 18, 1907, for the pacific settlement of international disputes, unless the Commission unanimously decides otherwise.

ART. 11. Sauf disposition contraire du présent Traité, les décisions de la Commission sont prises à la majorité simple des voix.

ART. 11. The Commission shall take its decisions by a majority vote of its members, except as otherwise laid down in the present Treaty.

La Commission peut délibérer valablement si tous les membres ont été dûment convoqués et si le Président et au moins deux autres membres sont présents.

The Commission shall be deemed to have a quorum if all the members have been duly convened and if the President and not less than two other members are present.

ART. 12. La commission présentera son rapport dans les six mois à compter du jour où elle aura été saisie du différend, à moins que les Parties contractantes ne décident, d'un commun accord, d'abréger ou de proroger ce délai.

ART. 12. The Commission shall make its report within six months from the day when the dispute is submitted to it, unless the Contracting Parties decide by joint agreement to curtail or prolong this period.

L'avis motivé des membres restés en minorité sera consigné dans le rapport.

The report shall contain the reasoned opinion of the members forming the minority.

Un exemplaire du rapport sera remis à chacune des Parties.

A copy of the report shall be sent to each Party.

Le rapport n'a, ni en ce qui concerne l'exposé des faits, ni en ce qui concerne les considérations juridiques, le caractère d'une sentence arbitrale.

The report shall not be in the nature of an arbitral award as regards either the statement of facts or the legal considerations.

Il appartiendra aux Parties de décider, d'un commun accord, si le rapport de la Commission peut être publié immédiatement.

It shall rest with the Parties to decide by agreement between themselves whether the Commission's report may be published at once.

ART. 13. La Commission permanente de conciliation fixera le délai dans lequel les Parties auront à se prononcer à l'égard de ses

ART. 13. The Permanent Conciliation Commission shall fix the period within which the Parties will be required to take their de-

propositions. Ce délai n'excédera pas toutefois la durée de trois mois.

ART. 14. Pendant la durée effective de la procédure, les membres de la Commission de conciliation reçoivent une indemnité dont le montant sera arrêté entre les Parties contractantes.

Chaque Partie supporte ses propres frais et une part égale des frais de la Commission.

ART. 15. Durant le cours de la procédure de conciliation, les Parties contractantes s'abstiendront de tout acte pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission permanente de conciliation.

ART. 16. Le présent traité sera ratifié et les instruments de ratification en seront échangés dans le plus bref délai possible.

Le traité est conclu pour la durée de dix ans à compter de l'échange des ratifications. S'il n'est pas dénoncé six mois au moins avant l'expiration de ce terme, il demeure en vigueur pour une nouvelle période de cinq ans, et ainsi de suite.

En foi de quoi, les Plénipotentiaires ont signé le présent traité et l'ont revêtu de leurs sceaux.

Fait en double exemplaire, à Copenhague, le 6 juin 1924.

Schreiber  
Moltke

cision as regards the Commission's proposals. This period shall not, however, exceed three months.

ART. 14. For the actual duration of the procedure, the members of the Conciliation Commission shall receive an allowance to be fixed by arrangement between the Contracting Parties.

Each Party shall bear its own costs and half the costs of the Commission.

ART. 15. During the procedure of conciliation the Contracting Parties shall abstain from any act which may prejudicially affect the acceptance of the proposals of the Permanent Conciliation Commission.

ART. 16. The present Treaty shall be ratified and the ratifications shall be exchanged as soon as possible.

The Treaty is concluded for a period of ten years from the date of the exchange of ratifications. Unless denounced at least six months before the expiration of this period, it shall remain in force for a further period of five years, and similarly thereafter.

In faith whereof, the plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

Done in duplicate, at Copenhagen, on the sixth day of June, nineteen hundred and twenty-four.

C. Moltke  
Schreiber

#### PERMANENT COMMISSION OF CONCILIATION

(Appointed November 23, 1925)

#### *President appointed by both Parties*

JONKHEER VAN KARNEBEEK, former Minister for Foreign Affairs of the Netherlands. (*Dutch.*)

*Members appointed by both Parties*

K. G. IDMAN, former Minister for Foreign Affairs of Finland, Finnish Minister to Denmark. (*Finnish*).

HENRY FROMAGEOT, Jurisconsult to the French Ministry for Foreign Affairs. (*French*.)

*Member appointed by Denmark*

GEORGE COHN, Jurisconsult to the Danish Ministry for Foreign Affairs. (*Danish*.)

*Member appointed by Switzerland*

WILLIAM E. RAPPAED, Professor and former Rector of the University of Geneva. (*Swiss*.)

## No. 19

## HUNGARY-SWITZERLAND: TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Budapest June 18, 1924; ratifications exchanged May 13, 1925.

Original text from Switzerland, *Recueil des Lois fédérales*, XLI, 1925, No. 14;<sup>1</sup> English translation from League of Nations, *Treaty Series*, XXXIV, 389-397.

*(Translation)*

Le Conseil Fédéral Suisse et Son Altesse Sérénissime le Gouverneur du Royaume de Hongrie animés du désir de resserrer les liens d'amitié qui unissent la Suisse et la Hongrie et de résoudre autant que possible, par voie de conciliation ou d'arbitrage, les différends qui viendraient à s'élever entre les deux pays,

ont résolu de conclure à cet effet un traité et ont désigné leurs Plénipotentiaires, savoir:

Le Conseil fédéral suisse:

Monsieur Charles Bourcart, Envoyé extraordinaire et Ministre plénipotentiaire de la Confédération Suisse en Hongrie,

Son Altesse Sérénissime le Gouverneur du Royaume de Hongrie:

Monsieur Géza Daruváry de Daruvár, Conseiller intime, Ministre Royal Hongrois des Affaires Etrangères,

The Swiss Federal Council and His Most Serene Highness the Regent of the Kingdom of Hungary, being desirous of strengthening the ties of friendship which unite Switzerland and Hungary and to settle as far as possible by conciliation or arbitration any disputes which may arise between the two countries, have decided to conclude a Treaty for this purpose and have appointed as their Plenipotentiaries:

The Swiss Federal Council:

M. Charles Bourcart, Envoy Extraordinary and Minister Plenipotentiary<sup>2</sup> to the Swiss Confederation in Hungary,

His Most Serene Highness the Regent of the Kingdom of Hungary:

M. Géza Daruváry de Daruvár, Privy Councillor and Royal Hungarian Minister for Foreign Affairs,

<sup>1</sup> See also League of Nations, *Treaty Series*, XXXIV, 388.

<sup>2</sup> Better 'of.' Cf. the French text.

lesquels, après s'être fait connaître leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Les Parties contractantes s'engagent à soumettre à une procédure de conciliation et, le cas échéant, à une procédure d'arbitrage les différends, de quelque nature qu'ils soient, qui s'élèveraient entre elles et n'auraient pu être résolus par la voie diplomatique dans un délai raisonnable.

ART. 2. Lorsqu'il s'agit d'un différend qui, aux termes de la législation intérieure de l'une des Parties contractantes, relève de la compétence des tribunaux, la Partie défenderesse peut s'opposer à ce qu'il soit soumis à une procédure de conciliation ou d'arbitrage avant qu'un jugement définitif ait été rendu par l'autorité judiciaire compétente.

La demande de conciliation doit, dans ce cas, être formée une année, au plus tard, à compter de se jugement.

ART. 3. La conciliation sera confiée à un Commissaire unique désigné, dans chaque cas particulier, d'un commun accord par les Parties contractantes.

Si, dans un délai de trois mois à compter du jour où l'une des Parties contractantes aura notifié à l'autre son intention de recourir à la procédure de conciliation, aucun accord n'est intervenu sur le choix du Commissaire, Sa Majesté la Reine des Pays-Bas sera priée de le désigner.

Le Commissaire ne doit ni être un ressortissant des Parties contractantes ni avoir son domicile sur leur territoire ou se trouver à leur service.

Il reçoit, pendant la durée effective de la procédure, une in-

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions.

ARTICLE 1. The Contracting Parties undertake to submit to a procedure of conciliation or, if necessary,<sup>1</sup> to arbitration, all disputes of any nature whatever which may arise between them and which it may not have been possible to settle within a reasonable time through the diplomatic channel.

ART. 2. In the case of a dispute which, according to the domestic legislation of one of the Contracting Parties, comes within the jurisdiction of the Courts, the defendant Party may oppose the submission of the dispute to a procedure of conciliation or to arbitration until a final judgment has been given by the competent judicial authority.

In this case, the request for conciliation procedure must be made within a year at most from the date of such judgment.

ART. 3. The conciliation shall be entrusted to a single Commissioner appointed for each particular case by joint agreement between the Contracting Parties.

If, within three months of the day when one of the Contracting Parties shall have notified to the other its intention of resorting to the procedure of conciliation no agreement has been arrived at regarding the choice of the Commissioner, Her Majesty the Queen of the Netherlands shall be asked to appoint him.

The Commissioner must not be a national of the Contracting Parties, nor be domiciled in their territory, nor be employed in their service.

During the actual course of the

<sup>1</sup> We have substituted 'if necessary' for 'alternatively' in the translation.

demnité dont le montant sera arrêté entre les Parties contractantes.

ART. 4. Le Commissaire est saisi du différend sur la requête d'une des Parties.

Notification de la requête sera faite en même temps à la Partie adverse par la Partie qui demande l'ouverture de la procédure de conciliation.

ART. 5. Les Parties contractantes détermineront le lieu où siègera le Commissaire. Si un accord à ce sujet n'intervient pas dans le délai de trois mois prévu à l'article 3, le Commissaire siégera à La Haye.

ART. 6. Le Commissaire a pour tâche de faciliter la solution du différend en éclaircissant, par un examen impartial et consciencieux, les questions de fait et en soumettant des propositions en vue du règlement de la contestation.

Son rapport sera présenté dans les six mois à compter du jour où il a été saisi d'une requête aux fins de conciliation à moins que les Parties contractantes ne décident, d'un commun accord, d'abrèger ou de proroger ce délai. Un exemplaire du rapport sera remis à chacune des Parties.

Le rapport n'a, ni en ce qui concerne l'exposé des faits, ni en ce qui concerne les considérations juridiques, le caractère d'une sentence obligatoire.

ART. 7. Les Parties contractantes s'engagent à fournir au Commissaire, dans la plus large mesure qu'elles jugeront possible, tous les moyens et toutes les facilités nécessaires pour la connaissance complète et l'appréciation exacte des faits à élucider.

Elles s'engagent, en outre, à user des moyens dont elles disposent,

procedure he shall receive an allowance to be fixed between the Contracting Parties.

ART. 4. The Commissioner shall be seized of the dispute upon the application of one of the Parties.

This application shall be notified at the same time to the opposing Party by the Party which is requesting the institution of the procedure of conciliation.

ART. 5. The Contracting Parties shall determine the place where the Commissioner shall sit. If no agreement on this point is concluded within the three months provided for in Article 3, the Commissioner shall sit at The Hague.

ART. 6. The task of the Commissioner shall be to promote the settlement of the dispute by an impartial and conscientious examination of the facts and by submitting proposals with a view to settling the case.

His report shall be made within six months from the day on which he was seized of a request for conciliation, unless the Contracting Parties shall jointly agree to curtail or prolong this period. A copy of the report shall be sent to each Party.

The report shall not be in the nature of a compulsory award as regards either the statement of facts or the legal considerations.

ART. 7. The Contracting Parties undertake, as far as they shall consider possible, to supply the Commissioner with all means and all facilities necessary for a complete knowledge and exact appreciation of the facts to be elucidated.

They further undertake to employ all the means placed at their disposal by their domestic legisla-

d'après leur législation intérieure, pour permettre au Commissaire de procéder, sur leur territoire, à la citation et à l'audition de témoins et d'experts ainsi qu'à des descentes sur les lieux.

ART. 8. Sauf convention contraire, la procédure de conciliation est régie par la Convention de la Haye pour le règlement pacifique des conflits internationaux, du 18 octobre 1907.

ART. 9. Le Commissaire fixe, dans son rapport, le délai jusqu'à l'expiration duquel les Parties doivent se prononcer à l'égard de ses propositions.

Ce délai n'excédera pas toutefois la durée de trois mois.

ART. 10. Si l'une des Parties contractantes n'accepte pas les propositions du Commissaire ou ne se prononce pas dans le délai fixé par son rapport, chacune d'elles peut demander que le litige soit soumis à l'arbitrage, à condition qu'il rentre dans l'une des catégories de différends d'ordre juridique ayant pour objet

- (a) l'interprétation d'un traité;
- (b) tout point de droit international;
- (c) la réalité de tout fait qui, s'il était établi, constituerait la violation d'un engagement international;
- (d) la nature ou l'étendue de la réparation due pour la rupture d'un engagement international.

En cas de contestation sur le point de savoir si le litige rentre dans l'une des catégories de différends susmentionnées, cette question préjudicielle sera soumise à l'arbitrage.

tion to enable the Commissioner to call and hear witnesses and experts within their territory as well as to carry out investigations on the spot.

ART. 8. In the absence of an agreement to the contrary, the procedure of conciliation shall be governed by the Hague Convention of October 18, 1907, for the pacific settlement of international disputes.

ART. 9. The Commissioner shall fix in his report the period within which the Parties must take their decision as regards his proposals.

This period shall not, however, exceed three months.

ART. 10. If one of the Contracting Parties does not accept the Commissioner's proposals or does not announce its decision within the period prescribed in his report, either of them may demand that the dispute be submitted to arbitration, provided that it is included in one of the categories of legal disputes relating to:

- (a) The interpretation of a treaty;
- (b) Any point of international law;
- (c) The existence of any fact which, if established, would constitute the violation of an international engagement;
- (d) The nature or extent of the reparation due for the breach of an international engagement;

In the event of a dispute as to whether the question is included in one of the above-mentioned categories of disputes, this *a priori* question shall be submitted to arbitration.

Si le tribunal arbitral reconnaît que le différend est susceptible de solution arbitrale au sens du présent traité, il statuera en même temps sur le fond.

ART. 11. Le tribunal arbitral chargé de statuer sur les différends qui, aux termes du présent traité, peuvent être soumis obligatoirement à l'arbitrage sera, dans chaque cas particulier, constitué d'un commun accord par les Parties contractantes.

Si le tribunal n'est pas constitué dans les six mois qui suivent la notification d'une demande d'arbitrage, chacune des Parties peut déférer, par voie de simple requête, le différend à la Cour permanente de Justice internationale.

Si le différend requiert célérité, les Parties contractantes peuvent convenir, dans ce dernier cas, de le porter devant la Chambre de procédure sommaire de la Cour permanente de Justice internationale.

ART. 12. Le tribunal se réunit, sauf convention contraire, au lieu désigné par son Président.

ART. 13. Les Parties contractantes établissent, dans chaque cas particulier, un compromis spécial déterminant nettement l'objet du différend, la composition et les compétences particulières du tribunal, ainsi que toutes autres conditions arrêtées entre elles.

Le compromis est établi par échange de notes entre les Gouvernements des Parties contractantes.

Il est interprété en tous points par le tribunal chargé de statuer sur le fond du différend.

ART. 14. Sauf convention contraire et sous réserve du cas où la

If the arbitral tribunal recognises that the dispute is capable of an arbitral solution within the meaning of the present Treaty, it shall at the same time pronounce upon the substance of the case.

ART. 11. The arbitral tribunal instructed to pronounce upon disputes which, according to the present Treaty, may be submitted to compulsory arbitration, shall, for each particular case, be constituted by joint agreement between the Contracting Parties.

If the tribunal is not constituted within six months after the notification of a request for arbitration, either Party may by a simple application refer the dispute to the Permanent Court of International Justice.

If the dispute requires despatch, the Contracting Parties may agree in this case to bring it before the Chamber for Summary Procedure of the Permanent Court of International Justice.

ART. 12. The tribunal shall meet at the place chosen by its President, unless there is an agreement to the contrary.

ART. 13. In each particular case the Contracting Parties shall draw up a special agreement (*compromis*) specifying clearly the subject of the dispute, the composition and particular competence of the tribunal, and any other conditions fixed between themselves.

The agreement shall be constituted by an exchange of notes between the Governments of the Contracting Parties.

All points contained therein shall be interpreted by the tribunal instructed to pronounce upon the substance of the dispute.

ART. 14. In the absence of an agreement to the contrary and ex-



Cour permanente de Justice internationale serait appelée à connaître du différend, la procédure arbitrale est régie par les articles 51 à 85 de la Convention pour le règlement pacifique des conflits internationaux, du 18 octobre 1907.

ART. 15. La sentence rendue par le tribunal sera exécutée de bonne foi par les Parties.

ART. 16. Si le tribunal établissait qu'une décision d'une instance judiciaire ou de toute autre autorité relevant de l'une des Parties contractantes se trouve entièrement ou partiellement en opposition avec le droit des gens et si le droit constitutionnel de cette Partie ne permet pas ou ne permet qu'imparfaitement d'effacer par voie administrative les conséquences de la décision en cause, il serait accordé à la Partie lésée une satisfaction équitable d'un autre ordre.

ART. 17. Les Parties contractantes s'abstiendront autant que possible, durant le cours de la procédure de conciliation ou d'arbitrage, de toute mesure pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions du Commissaire ou sur l'exécution de la sentence.

ART. 18. Chaque Partie supporte ses propres frais et une part égale des frais de la procédure de conciliation ou d'arbitrage.

ART. 19. Les contestations qui surgiraient au sujet de l'interprétation ou de l'exécution du présent traité seront, sauf convention contraire, soumises directement à l'arbitrage.

ART. 20. Le présent traité sera ratifié. Les instruments de ratification en seront échangés à Budapest dans le plus bref délai possible.

cept in cases where the Permanent Court of International Justice shall be seized of the dispute, the arbitral procedure is governed by Articles 51 to 85 of the Convention of October 18, 1907, for the pacific settlement of international disputes.

ART. 15. The award given by the tribunal shall be acted upon by the Parties in good faith.

ART. 16. Should the tribunal find that a decision of a court of law or other authority of one of the Contracting Parties is wholly or partly at variance with international law, and should the constitutional law of that Party not allow, or only inadequately allow, the cancellation of this decision by administrative procedure, the Party prejudiced shall be granted equitable satisfaction in some other form.

ART. 17. During the procedure of conciliation or arbitration the Contracting Parties shall, as far as possible, abstain from all measures which might prejudicially affect the acceptance of the proposals of the Commissioner or the execution of the award.

ART. 18. Each Party shall bear its own costs and half the costs of the procedure of conciliation or arbitration.

ART. 19. Any disputes which may arise with regard to the interpretation or the application of the present Treaty shall be submitted directly to arbitration, unless there is an agreement to the contrary.

ART. 20. The present Treaty shall be ratified. The ratifications shall be exchanged at Budapest as soon as possible.

Le traité est conclu pour la durée de dix ans à compter de l'échange des ratifications. S'il n'est pas dénoncé six mois avant l'expiration de ce terme, il demeure en vigueur pour une nouvelle période de cinq ans et ainsi de suite.

En foi de quoi, les Plénipotentiaires ont signé le présent traité et l'ont revêtu de leurs sceaux.

Fait en double exemplaire à Budapest, le dix-huit juin 1924.

Bourcart  
Daruváry

The Treaty is concluded for a period of ten years from the date of the exchange of ratifications. Unless denounced six months before the expiration of this period, it shall remain in force for a further period of five years, and similarly thereafter.

In faith whereof the Plenipotentiaries have signed the present Treaty and have thereto affixed their seals.

Done in duplicate at Budapest on the eighteenth day of June, one thousand nine hundred and twenty-four.

Bourcart  
Daruváry

#### FINAL PROTOCOL

##### *Of the Treaty of Conciliation and Arbitration concluded between Switzerland and Hungary*

Au moment de procéder à la signature du traité de conciliation et d'arbitrage conclu à la date de ce jour, les soussignés, dûment autorisés à cet effet, déclarent qu'il est entendu que le traité s'applique également aux différends ayant leur origine dans des faits antérieurs à sa conclusion: il ne sera toutefois pas applicable, sauf convention contraire, aux différends se trouvant dans un rapport direct avec des événements de la guerre mondiale.

Budapest, le dix-huit juin 1924.

Bourcart  
Daruváry

At the moment of signing the Treaty of Conciliation and Arbitration concluded this day, the undersigned, duly authorised to this effect, declare that it is understood that the Treaty applies also to disputes having their origin in occurrences prior to its conclusion; in the absence of an agreement to the contrary, however, it shall not be applicable to disputes directly concerned with incidents in the world war.

Budapest, June 18th, 1924.

Bourcart  
Daruváry

#### COMMISSION OF CONCILIATION

(Not permanent)

The Treaty provides for the appointment of one conciliator if a dispute arises.

## No. 20

BRAZIL-SWITZERLAND: TREATY OF ARBITRATION  
AND COMPULSORY ADJUDICATION

Signed at Rio de Janeiro June 23, 1924; ratifications exchanged April 7, 1925.

Original text from Switzerland, *Recueil des Lois fédérales*, XLI, 1925, No. 12; <sup>1</sup> English translation from League of Nations, *Treaty Series*, XXXIII, 420-421.

(Translation)

Le Conseil Fédéral Suisse et le Président de la République des Etats-Unis du Brésil animés du désir de resserrer toujours plus les liens de bonne amitié qui unissent les deux pays et de résoudre, autant que possible, par la voie judiciaire les différends qui viendraient à s'élever entre la Confédération Suisse et les Etats-Unis du Brésil, ont résolu de conclure à cet effet un traité et ont désigné leurs Plénipotentiaires, savoir:

Le Conseil fédéral suisse:

Monsieur Albert Gertsch, Envoyé Extraordinaire et Ministre Plénipotentiaire de la Confédération Suisse aux Etats-Unis du Brésil,

Le Président de la République des Etats-Unis du Brésil:

Monsieur José Felix Alves Pacheco, Ministre d'Etat des Relations Extérieures.

Lesquels, après s'être fait connaître leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE I. Les Hautes Parties contractantes s'engagent à soumettre à la Cour permanente de Justice internationale les différends qui s'élèveraient entre elles et n'auraient pu être résolus par la voie diplomatique ou par tout autre

The Swiss Federal Council and the President of the Republic of the United States of Brazil, being desirous of strengthening still further the ties of friendship which unite the two countries and of settling as far as possible by judicial means any disputes which may arise between the Swiss Confederation and the United States of Brazil, have resolved to conclude a Treaty for this purpose and have appointed as their Plenipotentiaries:

The Swiss Federal Council:

M. Albert Gertsch, Envoy Extraordinary and Minister Plenipotentiary of the Swiss Confederation in the United States of Brazil,

The President of the Republic of the United States of Brazil:

M. José Felix Alves Pacheco, Minister of State for Foreign Affairs,

Who, having communicated their full powers found in good and due form, have agreed upon the following provisions:

ARTICLE I. The High Contracting Parties undertake to submit to the Permanent Court of International Justice any disputes that may arise between them and which it may not have been possible to settle through the diplomatic chan-

<sup>1</sup> See also League of Nations, *Treaty Series*, XXXIII, 416. The Portuguese text is also authentic.

moyen de conciliation, à la condition, toutefois, qu'ils ne portent pas sur des questions qui affectent des principes constitutionnels de l'un ou l'autre des Etats contractants.

ART. II. Les questions qui ont déjà fait l'objet d'accords définitifs entre les deux Parties ne peuvent donner lieu à recours à la Cour permanente de Justice internationale, à moins que le différend ne porte sur l'interprétation ou l'exécution de ces mêmes accords.

ART. III. Dans chaque cas particulier, les Hautes Parties contractantes signeront un compromis spécial déterminant nettement l'objet du différend, les compétences particulières qui pourraient être dévolues à la Cour, ainsi que toutes autres conditions arrêtées entre elles.

Le compromis est établi par échange de notes entre les Gouvernements des Hautes Parties contractantes.

Il est interprété en tous points par la Cour permanente de Justice internationale.

Si, dans les six mois qui suivent la notification d'un projet de compromis par l'une des Parties, les Hautes Parties contractantes ne parviennent pas à s'entendre sur les dispositions à prendre, chacune d'entre elles peut saisir la Cour de Justice internationale par voie de simple requête, conformément à l'article 40 de son Statut.

ART. IV. Les Hautes Parties contractantes s'engagent à observer et à exécuter loyalement l'arrêt rendu par la Cour permanente de Justice internationale.

Elles s'abstiendront, durant le cours de la procédure judiciaire, de toute mesure pouvant avoir une

nel or by any other method of conciliation, subject, however, to the condition that these disputes shall not refer to questions affecting the constitutional principles of one or other of the Contracting States.

ART. 2. Questions which have already been the subject of definite agreements between the two Parties shall not be referred to the Permanent Court of International Justice unless the dispute bears upon the interpretation or execution of these agreements.

ART. 3. In each particular case the High Contracting Parties shall sign a special agreement (*compromis*) specifying clearly the subject of the dispute, the particular competence that might devolve upon the Court, and any other conditions fixed between themselves.

The agreement shall be constituted by an exchange of notes between the Governments of the High Contracting Parties.

All points contained therein shall be interpreted by the Permanent Court of International Justice.

If, within six months of the notification by one of the Parties of a draft, the High Contracting Parties do not agree upon the steps to be taken, either Party may, by a simple application, refer the matter to the Court of International Justice, in conformity with Article 40 of the Statute of the Court.

ART. 4. The High Contracting Parties undertake to observe and act loyally upon the judgment of the Permanent Court of International Justice.

During the judicial procedure they shall abstain from all measures which might prejudicially affect the

répercussion préjudiciable sur l'exécution de l'arrêt à rendre par la Cour de Justice.

ART. V. Les difficultés auxquelles peut donner lieu l'exécution de l'arrêt seront tranchées par la Cour permanente de Justice internationale.

Dans ce cas, chacune des Parties peut saisir la Cour de Justice du différend par voie de simple requête.

ART. VI. Chaque Partie supporte ses propres frais de procédure.

ART. VII. Le présent traité sera ratifié. Les instruments de ratification en seront échangés à Rio de Janeiro dans le plus bref délai possible.

Le traité est conclu pour la durée de dix ans à compter de l'échange des ratifications. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il demeure en vigueur pour une nouvelle période de dix ans, et ainsi de suite.

En foi de quoi, les Plénipotentiaires ci-dessus nommés ont signé le présent traité en deux exemplaires, chacun en langues française et portugaise, et y ont apposé leurs sceaux.

Fait en double exemplaire, à Rio de Janeiro, le vingt-trois juin 1924.

Albert Gertsch

José Felix Alves Pacheco

execution of the judgment given by the Court of Justice.

ART. 5. Any difficulties which may arise as to the execution of the judgment shall be settled by the Permanent Court of International Justice.

In this case either Party may refer the dispute to the Court of Justice by a simple application.

ART. 6. Each Party shall bear its own costs of procedure.

ART. 7. The present Treaty shall be ratified. The instruments of ratification shall be exchanged at Rio de Janeiro as soon as possible.

The Treaty is concluded for a period of ten years from the date of the exchange of ratifications. Unless denounced six months before the expiration of this period, it shall remain in force for a further period of ten years, and similarly thereafter.

In faith whereof the Plenipotentiaries above mentioned have signed the present Treaty in duplicate, each copy being in the French and Portuguese languages, and have thereto affixed their seals.

Done in duplicate, at Rio de Janeiro, on the twenty-third day of June, 1924.

Albert Gertsch

Jose Felix Alves Pacheco

## No. 21

SWEDEN-UNITED STATES OF AMERICA: TREATY  
OF ARBITRATION

Signed at Washington June 24, 1924; ratifications exchanged March 18, 1925; abrogated April 15, 1929.<sup>1</sup>

Original text from United States of America, *Treaty Series*, 1925, No. 708.<sup>2</sup>

The Government of the United States of America and the Government of His Majesty the King of Sweden desiring, in pursuance of the principles set forth in Articles XXXVII-XL of the Convention for the Pacific Settlement of International Disputes signed at The Hague October 18, 1907, to enter into negotiations for the conclusion of an Arbitration Convention have named as their Plenipotentiaries, to wit:

The President of the United States of America: Charles Evans Hughes, Secretary of State of the United States; and

His Majesty the King of Sweden: Captain Axel F. Wallenberg, His Envoy Extraordinary and Minister Plenipotentiary at Washington;

Who, after having communicated to one another their full powers, found in good and due form, have agreed upon the following Articles:

ARTICLE I. Differences which may arise of a legal nature or relating to the interpretation of treaties existing between the Contracting Parties and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the Conventions of July 29, 1899, and October 18, 1907, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two Contracting States, and do not concern the interests of third Parties.

ART. II. In each individual case the Contracting Parties, before appealing to the Permanent Court of Arbitration, shall conclude a special Agreement defining clearly the matter in dispute, the scope of the powers of the Arbitrators, and the periods to be fixed for the formation of the Arbitral Tribunal and the several stages of the procedure. It is understood that on the part of the United States such special agreements will be made by the President of the United States, by and with the advice and consent of the Senate thereof, and on the part of Sweden by the King in such forms and conditions as he may find requisite or appropriate.

ART. III. The present Convention shall be ratified by the Contracting Parties. The ratifications shall be exchanged at Washington as soon as possible, and the Convention shall take effect on the date of the exchange of ratifications.

<sup>1</sup> See *infra*, Art. 3 of No. 128.

<sup>2</sup> See also League of Nations, *Treaty Series*, XXXIII, 274. The French text is also authentic.

ART. IV. The present Convention is concluded for a term of five years, dating from the exchange of ratifications. In case neither Contracting Party should give notice, six months before the expiration of that period of its intention to terminate the Convention, it will continue binding until the expiration of six months from the day when either Contracting Party shall have denounced it.

Done in duplicate at the city of Washington, in the English and French languages, this twenty-fourth day of June, one thousand nine hundred and twenty-four.

Charles Evans Hughes  
Ax. Wallenberg

## No. 22

### DENMARK-FINLAND: TREATY OF CONCILIATION

Signed at Stockholm June 27, 1924; ratifications exchanged March 7, 1925.<sup>1</sup>

Original text from Finland, *Överenskommelser med främmande makter*, 1925, No. 7;<sup>2</sup> English translation from League of Nations, *Treaty Series*, XXXIII, 144-147.

(Translation)

Le Président de la République de Finlande et Sa Majesté le Roi de Danemark et d'Islande, animés du désir de favoriser le développement de la procédure de conciliation des différends internationaux dans un esprit conforme au Pacte de la Société des Nations,

décidés à réaliser, dans les rapports entre les deux États, les principes de la résolution de l'Assemblée de la Société des Nations en date du 22 septembre 1922, tendant à l'institution de commissions de conciliation par voie de conventions entre les États,

ont résolu de conclure à cet effet une Convention et ont nommé Leurs plénipotentiaires, savoir:

le Président de la République de Finlande:

His Majesty the King of Denmark and the President of the Finnish Republic, being desirous of promoting the development of the procedure of conciliation in international disputes in accordance with the spirit of the Covenant of the League of Nations, and being desirous of carrying into effect the principles laid down in the Resolution regarding the conclusion of conciliation Conventions which was adopted by the Assembly of the League of Nations on September 22, 1922, have for this purpose agreed to conclude a Convention, and have appointed as their Plenipotentiaries the following:

His Majesty the King of Denmark and Iceland:

<sup>1</sup> Amended by Protocol of Signature of Treaty between Finland and Denmark, signed January 30, 1926; see *infra*, No. 57.

<sup>2</sup> See also League of Nations, *Treaty Series*, XXXIII, 132. The Treaty is drafted in French, Danish, Finnish, and Swedish. The French text is authoritative.

Monsieur le Dr. Werner Söderhjelm, Envoyé Extraordinaire et Ministre Plénipotentiaire de la République à Stockholm, et

Sa Majesté le Roi de Danemark et d'Islande:

Monsieur Bent Fritz Falkenstjerne, Son Chargé d'Affaires ad interim à Stockholm,

lesquels, dûment autorisés à cet effet, sont convenus des articles suivants:

ARTICLE 1<sup>er</sup>. Les Parties contractantes s'engagent à soumettre, aux fins d'enquête et de conciliation, à une Commission permanente, constituée dans les conditions prévues ci-dessous, tous différends, de quelque nature qu'ils soient, qui n'auraient pu être résolus par la voie diplomatique dans un délai raisonnable et qui ne doivent pas être déferés, aux termes, soit du Statut de la Cour Permanente de Justice Internationale, soit de tout autre accord conclu entre Elles, à la dite Cour ou à un tribunal d'arbitrage.

ART. 2. Si un différend, dont l'une des Parties a saisi la Commission, est porté par l'autre Partie, conformément aux dispositions visées à l'article 1<sup>er</sup>, devant la Cour Permanente ou un tribunal d'arbitrage, la Commission suspendra l'examen du différend jusqu'à ce que la Cour ou le tribunal ait statué sur la compétence.

ART. 3. La Commission se compose de cinq membres. Chaque Etat en désigne deux, dont l'un peut être choisi parmi ses propres nationaux. Le cinquième, qui remplit les fonctions de Président, doit appartenir à une autre nationalité

M. Bent Fritz Falkenstjerne, His Chargé d'Affaires *a. i.* at Stockholm.

The President of the Finnish Republic:

Dr. Werner Söderhjelm, Envoy Extraordinary and Minister Plenipotentiary of the Republic at Stockholm,

Who, having been duly appointed with full powers for that purpose, have agreed upon the following articles:

ARTICLE 1. The Contracting Parties undertake to refer to a Permanent Commission, to be appointed in the manner set forth below, for investigation and settlement by conciliation, all disputes of any nature whatever which it has not been possible to settle within reasonable time through diplomatic channels and which should not, under the terms of the Statute of the Permanent Court of International Justice or of any other agreement between the Parties, be submitted either to the Permanent Court or to a Court of Arbitration.

ART. 2. When a dispute which has been referred to the Commission by one of the Parties has been brought before the Permanent Court or a Court of Arbitration by the other Party under the terms of Article 1, the Commission shall postpone its investigation of the dispute until the Permanent Court or the Court of Arbitration shall have determined the question of competence in the case.

ART. 3. The Commission shall be composed of five members. Each Party shall appoint two members, one of which may be a national of the appointing State. The fifth member, who shall act as Chairman of the Commission,



qu'à celles des autres membres de la Commission. Le Président est désigné d'un commun accord par les Parties. Au cas où cet accord ne pourrait s'établir, sa nomination sera effectuée à la requête de l'une des Parties, par le Président de la Cour Permanente de Justice Internationale ou, si celui-ci est ressortissant d'un des Etats contractants, par le Vice-Président de la Cour.

La Commission devra être constituée dans les six mois qui suivront l'échange des ratifications de la présente Convention.

ART. 4. Les Membres de la Commission sont nommés pour trois ans. Sauf accord contraire entre les Parties, ils ne pourront pas être révoqués pendant la durée de leur mandat. En cas de décès ou de retraite de l'un d'eux il devra être pourvu à son remplacement pour le reste de la durée de son mandat, si possible dans les deux mois qui suivront et, en tout cas, aussitôt qu'un différend aura été soumis à la Commission.

ART. 5. Dans un délai de quinze jours, à dater de celui où l'un des Etats contractants aura porté un différend devant la Commission, chacune des Parties pourra, pour l'examen du litige visé, remplacer l'un des membres désignés par Elle par une personne possédant une compétence spéciale dans la matière, sous réserve, toutefois, de la règle stipulée à l'article 3 concernant la nationalité des membres de la Commission.

La Partie qui voudrait user de ce droit, en avertira immédiatement la Partie adverse; dans ce cas, Celle-ci a la faculté d'user du même droit, dans un délai de quinze jours à partir de celui où l'avertissement Lui est parvenu.

shall be a national of a State not otherwise represented on the Commission. He shall be appointed jointly by the Parties. Should the Parties be unable to agree, the Chairman shall, at the request of one of the Parties, be appointed by the President of the Permanent Court of International Justice or, should the latter be a national of one of the Contracting States, by the Vice-President of the Court.

The Commission shall be appointed within six months after the ratifications of the present Convention have been exchanged.

ART. 4. The members of the Commission shall be appointed for three years. They shall be irremovable during their term of office unless the Parties agree otherwise. In the event of the death or retirement of a member, the vacancy must be filled for the remainder of his term of office, within, if possible, the next two months, but in any case as soon as a dispute has been submitted to the Commission.

ART. 5. Either of the Parties may, within fifteen days after one of them has submitted a dispute to the Commission, replace one of the members whom it has appointed by a person specially qualified to deal with the particular case before the Commission, subject, however, to the rules laid down in Article 3 with regard to the nationality of members.

If one Party desires to avail itself of this right, it shall at once inform the other Party, which may take a similar step within fifteen days of receiving such notification.

ART. 6. Si, à l'expiration du mandat d'un membre, il n'est pas pourvu à son remplacement, son mandat est censé renouvelé pour une période de trois ans; toutefois, sur la demande de l'une des Parties, les fonctions du Président doivent cesser à la fin de son mandat.

Un membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part à l'examen du différend jusqu'à ce que la procédure soit terminée, nonobstant le fait que son remplaçant ait été désigné.

ART. 7. Les différends sont portés devant la Commission par la notification qui en est faite par l'une des Parties au Président de la Commission. Cette notification doit être portée immédiatement à la connaissance de la Partie adverse. Le Président doit convoquer la Commission dans le plus bref délai.

La Partie ayant saisi la Commission du différend en avisera le Secrétaire général de la Société des Nations.

ART. 8. La Commission se réunit au siège de la Société des Nations, à moins que les Parties ne lui aient assigné, dans un cas particulier, un autre lieu de réunion.

ART. 9. Les Parties s'engagent à fournir à la Commission toutes les informations utiles et à lui faciliter, à tous égards, l'accomplissement de sa tâche.

La Commission pourra demander au Secrétaire général de la Société des Nations l'assistance du Secré-

ART. 6. If, at the end of his term of office, a member of the Commission has not been replaced, his term of office shall be considered as renewed for a period of three years. The Chairman, however, shall, at the request of one of the Parties, cease to hold office at the end of his appointed term.

If a member's term of office expires in the course of proceedings in connection with a dispute, he shall continue to take part in such proceedings until the dispute has been settled, even if his successor has been appointed.

ART. 7. When one of the Parties desires to submit a dispute to the Commission, it shall notify the President.<sup>1</sup> The other Party shall also be informed at once of such notification. The President shall convene the Commission as soon as possible.

The Party which has submitted the dispute to the Commission shall notify the Secretary-General of the League of Nations.

ART. 8. The Commission shall meet at the seat of the League of Nations unless, in special cases, the Parties decide otherwise.

ART. 9. The Parties shall supply the Commission with all the information which may be useful and shall in every respect assist it in the accomplishment of its task.

The Commission may apply to the Secretary-General of the League of Nations for the assistance of the

<sup>1</sup> The reader must not be confused by the fact that the translation calls the head of the commission 'Chairman' during the early part of the treaty and 'President' from this point on, except in Article 17. The term in the French text is uniformly 'Président.' The same peculiarity may be noted in the translation of several similar treaties, printed below.

tariat, si la Commission en a besoin pour ses travaux.

Secretariat if it appears that such assistance is necessary to facilitate its task.

ART. 10. Les Parties ont le droit de nommer des agents spéciaux auprès de la Commission qui devront en même temps servir d'intermédiaires entre Elles et la Commission.

ART. 10. The Parties shall be entitled to appoint special representatives on<sup>1</sup> the Commission. These representatives shall also act as intermediaries between the Parties and the Commission.

ART. 11. Les débats devant la Commission ne sont publics que si la Commission, d'accord avec les Parties, en décide ainsi.

ART. 11. Proceedings before the Commission shall not be public unless the Commission so decides and the Parties agree.

ART. 12. La procédure devant la Commission est contradictoire.

ART. 12. In proceedings before the Commission both Parties shall be heard.

La Commission règlera elle-même la procédure, en tenant compte, à défaut d'une décision contraire prise à l'unanimité, des dispositions contenues au titre III de la Convention de la Haye pour le règlement pacifique des conflits internationaux, du 18 octobre 1907.

The Commission shall draw up rules to govern its procedure, subject to the proviso that the regulations laid down in Chapter III of the Hague Convention of October 18, 1907, for the pacific settlement of international disputes shall be applied, unless the Commission unanimously agrees to depart from these regulations.

ART. 13. Sous réserve des dispositions contraires de la présente Convention, les décisions de la Commission sont prises à la majorité simple. Chaque membre dispose d'une voix, celle du Président étant décisive en cas de partage. La Commission peut délibérer valablement si tous les membres ont été dûment convoqués et si le Président et au moins deux autres membres sont présents.

ART. 13. The Commission shall take its decisions by a majority vote of its members except where otherwise laid down in the present Convention.

Each member shall have one vote, and in case of a tie the President shall have a casting vote.

A quorum shall be constituted if all the members have been duly summoned and if the President and not less than two other members are present.

ART. 14. La Commission fera un rapport sur chaque différend qui lui a été soumis. Le rapport comportera un projet de règlement du différend, si les circonstances y donnent lieu et si trois au moins

ART. 14. The Commission shall make a report on each dispute submitted to it. The report shall include a proposal for the settlement of the dispute, if a settlement is possible, and if at least three mem-

<sup>1</sup> Rather 'special agents to represent them before.' Cf. the French text.

des membres de la Commission se mettent d'accord sur un tel projet.

L'avis motivé des membres restés en minorité sera consigné dans le rapport.

ART. 15. Sous réserve du droit des Parties de prolonger ce délai, la Commission doit achever ses travaux dans un délai de six mois, à dater du jour où le différend a été porté devant la Commission.

Le temps durant lequel les travaux de la Commission sont suspendus selon les dispositions de l'article 2 n'est pas compris dans le délai susmentionné.

ART. 16. Le rapport de la Commission est signé par le Président et porté sans délai à la connaissance des Parties et du Secrétaire général de la Société des Nations.

Les Parties s'engagent à porter à leur connaissance réciproque dans un délai raisonnable si Elles acceptent les constatations du rapport et les propositions qu'il renferme.

Il appartient aux Parties de décider, d'un commun accord, si le rapport de la Commission doit être publié immédiatement. Toutefois, même à défaut de cet accord, la Commission pourra, en cas de raisons spéciales, procéder à la publication immédiate du rapport.

ART. 17. Chacune des Parties indemniserà les membres de la Commission nommés par Elle et fournira la moitié de l'indemnité du Président.

Les Parties doivent chercher à s'entendre pour que, des deux côtés, les indemnités des membres de la Commission soient fixées d'après les mêmes chiffres.

Chaque Partie supportera les frais de procédure encourus par

bers agree to the proposals. The reasoned opinion of the members who are in the minority shall be recorded in the report.

ART. 15. The Commission shall complete its task within six months from the day when the dispute is submitted to it, unless the Parties agree to an extension of this period.

The above period shall not include any time during which the Commission's work is interrupted for reasons arising out of the provisions of Article 2.

ART. 16. The Commission's report shall be signed by the President, who shall immediately bring it to the knowledge of the Parties and of the Secretary-General of the League.

The Parties undertake to inform each other within reasonable time as to how far they approve the findings of the report and accept the settlement proposed therein.

The Parties shall decide, in agreement with one another, whether the Commission's report shall be published immediately after it has been issued; in special circumstances, however, the Commission may decide that the report shall be published at once, even in the absence of any such agreement.

ART. 17. Each Party shall pay the allowances of the members of the Commission which it has appointed and shall also pay half the allowances of the Chairman.

The Parties shall endeavour to arrange that the allowances of the members of the Commission on both sides shall be fixed at the same figure.

Each Party shall bear the costs of procedure which it has incurred

Elle et la moitié de ceux déclarés communs par la Commission.

ART. 18. La présente convention est rédigée en langues finnoise, suédoise, danoise et française. Dans toutes les questions relatives à son interprétation, c'est le texte français qui fera foi.

La présente convention sera ratifiée et les ratifications seront échangées à Copenhague aussitôt que faire se pourra. Elle entrera en vigueur immédiatement après l'échange des ratifications et aura une durée de cinq années à dater de l'échange des ratifications. Si elle n'a pas été dénoncée six mois au moins avant l'expiration de ce délai, elle restera en vigueur pendant une nouvelle période de cinq ans et sera ainsi de suite censée renouvelée chaque fois pour cinq ans, sauf dénonciation six mois au moins avant l'expiration de la précédente période de cinq ans.

En foi de quoi les plénipotentiaires respectifs ont signé la présente convention et y ont apposé leurs cachets.

Fait à Stockholm, en deux exemplaires, le 27 juin 1924.

Werner Söderhjelm  
Bent Falkenstjerne

and half of those which the Commission may declare to be joint costs.

ART. 18. The present Convention is drafted in Danish, Finnish, Swedish and French. In any questions concerning its interpretation the French text shall be authoritative.

The present Convention shall be ratified and the ratifications exchanged at Copenhagen as soon as possible. It shall come into force as soon as the instruments of ratification have been exchanged and shall remain in force for five years from that date. Unless denounced within six months before the expiration of this period, it shall remain in force for a further period of five years and shall thereafter be regarded as renewed for successive periods of five years, unless denounced within six months before the expiration of the preceding period of five years.

In faith whereof, the Plenipotentiaries have signed the present Convention and thereto affixed their seals.

Done in duplicate, at Stockholm, June 27, 1924.

Bent Falkenstjerne  
Werner Söderhjelm

#### PERMANENT COMMISSION OF CONCILIATION

(Appointed October 17, 1925)

##### *President appointed by both Parties*

JONKHEER J. LOUDON, Dutch Minister to France, former Minister for Foreign Affairs of the Netherlands. (*Dutch.*)

##### *Members appointed by Denmark*

F. C. C. SCHRÖDER, Director of the National Bank of Denmark. (*Danish.*)

B. VOGT, Norwegian Minister to Great Britain. (*Norwegian.*)

##### *Members appointed by Finland*

LORENZO KIHLMAN, Counsellor at the Supreme Administrative Court of Finland. (*Finnish.*)

A. DE LAPRADELLE, Professor at the University of Paris. (*French.*)

## No. 23

## DENMARK-NORWAY: TREATY OF CONCILIATION

Signed at Stockholm June 27, 1924; ratifications exchanged March 14, 1925.<sup>1</sup>

Original text from Denmark, *Lovtidende*, 1925, A, No. 15 (No. 113);<sup>2</sup> English translation from League of Nations, *Treaty Series*, XXXIII, 183-189.

(Translation)

Hans Majestæt Kongen af Danmark og Island og Hans Majestæt Norges Konge, som er besjælede af Ønsket om at fremme Udviklingen af Forligsbehandling i internationale Tvister i en med Folkenes Forbunds Pagt overensstemmende Aand, og som herved for deres Vedkommende har villet gennemføre Principperne i Forbundets Delegeretforsamlings Resolution af 22. September 1922 om Afslutning af Konventioner om Forligsnævn, er blevet enige om i dette Øjemed at afslutte en Konvention og har til deres Befuldmægtigede udset:

His Majesty the King of Denmark and Iceland and His Majesty the King of Norway, being desirous of promoting the development of the procedure of conciliation in international disputes in accordance with the spirit of the Covenant of the League of Nations, and being desirous of carrying into effect the principles laid down for this purpose in the resolution regarding the conclusion of conciliation Conventions which was adopted by the Assembly of the League on the September 22, 1922, have for this purpose agreed to conclude a Convention, and have appointed as their Plenipotentiaries the following:

Hans Majestæt Kongen af Danmark og Island:

Hans Majestæts chargé d'affaires a. i. i Stockholm Bent Fritz Falkenstjerne;

Hans Majestæt Norges Konge: Hans Majestæts overordentlige Gesandt og befuldmægtigede Minister i Stockholm Johan Herman Wollebæk;

hvilke, behørigt befuldmægtigede, er kommet overens om følgende Artikler:

His Majesty the King of Denmark and Iceland:

M. Bent Fritz Falkenstjerne, His Chargé d'Affaires at Stockholm;

His Majesty the King of Norway:

M. Johan Herman Wollebæk, Envoy Extraordinary and Minister Plenipotentiary at Stockholm;

Who, having been duly provided with full powers for that purpose, have agreed upon the following articles:

ARTIKEL 1. De kontraherende Parter forpligter sig til at henvise til

ARTICLE 1. The Contracting Parties undertake to refer to a

<sup>1</sup> Amended by Protocol of Signature of Treaty between Denmark and Norway, signed January 15, 1926; see *infra*, No. 55.

<sup>2</sup> See also League of Nations, *Treaty Series*, XXXIII, 174. The Norwegian text is also authentic.

et staaende Nævn, som oprettes paa den nedenfor angivne Maade, til Undersøgelse og Forligsbehandling alle Tvister, af hvad Art de maatte være, som ikke indenfor rimelig Tid har kunnet løses ad diplomatisk Vej og ikke ifølge Statutten for den faste mellemfolkelige Domstol eller anden Overenskomst mellem dem skal underkastes enten nævnte Domstols eller en Voldgiftsrets Afgørelse.

ART. 2. Naar en Tvist, som af den ene Part er henvist til Nævnet, af den anden Part indbringes for Domstolen eller for en Voldgiftsret i Henhold til de i Artikel 1 nævnte Bestemmelser, skal Nævnet udsætte Behandlingen af Tvisten, indtil Domstolens eller Voldgiftsrettens Beslutning angaaende deres Kompetence foreligger.

ART. 3. Nævnet skal bestaa af fem Medlemmer. Enhver af Parterne vælger to af disse, af hvilke den ene kan vælges blandt Statens egne Undersaatter. Det femte Medlem, som skal være Nævnets Formand, skal være af anden Nationalitet end Nævnets øvrige Medlemmer. Formanden vælges af Parterne i Forening. Skulde disse ikke kunne blive enige om Valget, skal han efter Anmodning fra en af Parternes Side vælges af Præsidenten for den faste mellemfolkelige Domstol eller, hvis denne er Statsborger i nogen af de kontraherende Stater, af Domstolens Vicepræsident.

Nævnet skal være oprettet inden seks Maaneder efter Udvekslingen af Ratifikationerne af nærværende Konvention.

Permanent Commission, to be appointed in the manner set forth below, for investigation and settlement by conciliation, all disputes of any nature whatever which it has not been possible to settle within reasonable time through diplomatic channels, and which should not, under the terms of the Statute of the Permanent Court of International Justice or of any other agreement between the Parties, be submitted either to the Permanent Court or to a Court of Arbitration.

ART. 2. When a dispute, which has been referred to the Commission by one of the Parties, has been brought before the Permanent Court or a Court of Arbitration by the other Party under the terms of Article 1, the Commission shall postpone its investigation of the dispute until the Permanent Court or the Court of Arbitration shall have determined the question of competence in the case.

ART. 3. The Commission shall be composed of five members. Each Party shall appoint two members, one of which may be a national of the appointing State. The fifth member, who shall act as chairman of the Commission, shall be a national of a State not otherwise represented on the Commission. He shall be appointed jointly by the Parties. Should the Parties be unable to agree, the chairman shall, at the request of one of the Parties, be appointed by the President of the Permanent Court of International Justice, or, should the latter be a national of one of the Contracting States, by the Vice-President of the Court.

The Commission shall be appointed within six months after the ratifications of the present Convention have been exchanged.

ART. 4. Nævnets Medlemmer vælges for en Tid af tre Aar. Deres Hverv kan ikke tilbagekaldes før Udløbet af det Tidsrum, for hvilket de er valgt, med mindre Parterne derom er enige. Hvis et Medlem dør eller fratræder sin Stilling skal for Resten af Valgperioden en anden vælges i hans Sted saavidt muligt to Maaneder derefter og i ethvert Fald, saasnart Tvist henvises til Nævnet.

ART. 5. Inden Udløbet af fjorten Dage, efterat en Part har henvist en Tvist til Nævnet, har Parterne Adgang til for Behandlingen af den paagældende Tvist at erstatte det ene af de fra deres Side udsete Medlemmer med en Person, som med Hensyn til foreliggende Spørgsmaal er i Besiddelse af særlig Sagskundskab, dog med Iagttagelse af den i Artikel 3 fastsatte Regel angaaende Medlemmernes Nationalitet.

Den Part, som vil benytte denne Adgang, skal derom straks underrette Modparten, og denne har i saa Fald, inden fjorten Dage efter at han har erholdt denne Underretning, Adgang til at tage tilsvarende Skridt.

ART. 6. Hvis ved Udløbet af det Tidsrum, for hvilket et Medlem er valgt, et andet Medlem ikke er blevet udset i hans Sted, skal den paagældendes Mandat anses fornyet for tre Aar; Formandens Mandat skal dog ophøre ved Valgperiodens Udløb, hvis dette forinden er krævet af nogen af Parterne.

Et Medlem, hvis Mandat ophører, medens en Tvist er til Behandling af Nævnet, skal, selvom Efterfølger er blevet valgt, fortsætte med Behandlingen af Tvisten, indtil denne er afsluttet.

ART. 4. The members of the Commission shall be appointed for three years. They shall be irremovable during their period of office unless the Parties agree otherwise. In the event of the death or retirement of a member, the vacancy must be filled for the remainder of his term of office within the next two months if possible, but, in any case, as soon as a dispute has been submitted to the Commission.

ART. 5. Either of the Parties may, within fourteen days after one of them has submitted a dispute to the Commission, replace one of the members whom it has appointed by a person specially qualified to deal with the particular case before the Commission, subject, however, to the rules laid down in Article 3 with regard to the nationality of members.

If one Party desires to avail itself of this right, it shall at once inform the other Party, which may take a similar step within fourteen days of receiving such notification.

ART. 6. If, at the end of his term of office, a member of the Commission has not been replaced, his term shall be considered as renewed for a period of three years. The chairman, however, shall, at the request of one of the Parties, cease to hold office at the end of his appointed term.

If a member's term of office expires in the course of proceedings in connection with a dispute, he shall continue to take part in such proceedings until the dispute has been settled, even if his successor has been appointed.



ART. 7. En Tvist henvises til Nævnet ved en fra en af Parterne til Nævnets Formand rettet Meddelelse. Om saadan Meddelelse skal der straks gives den anden Part Underretning. Formanden skal snarest muligt sammenkalde Nævnet.

Meddelelse om Tvistens Henvi-  
sing til Nævnet skal af vedkom-  
mende Part bringes til Folkenes  
Forbunds Generalsekretærs Kund-  
skab.

ART. 8. Nævnet sammentræder  
paa det Sted, hvor Folkenes For-  
bund har sit Sæde, hvis Parterne  
ikke i særligt Tilfælde træffer anden  
Aftale.

ART. 9. Parterne forpligter sig  
til at tilstille Nævnet alle for dets  
Opgave nødvendige Oplysninger  
samt til iøvrigt paa enhver Maade  
at lette Nævnets Udførelsen af dets  
Hverv.

Nævnet kan hos Folkenes For-  
bunds Generalsekretær anmode om  
Sekretariatets Bistand, naar denne  
maatte være nødvendig for Næv-  
nets Virksomhed.

ART. 10. Parterne har Ret til at  
udse særlige Repræsentanter ved  
Nævnet, hvilke ligeledes skal være  
Mellemed mellem dem og Nævnet.

ART. 11. Nævnets Forhandlinger  
er ikke offentlige, med mindre  
Beslutning derom træffes af Næv-  
net med Parternes Samtykke.

ART. 12. Forhandlingerne for  
Nævnet er kontradiktoriske.

Nævnet fastsætter iøvrigt Re-  
glerne for Forhandlingerne, dog  
saaledes, at Bestemmelserne i Ka-  
pitel III i Haagerkonventionen af  
18. Oktober 1907 angaaende fredelig  
Bilagelse af internationale Strid-  
igheder skal anvendes, med min-

ART. 7. When one of the Parties  
desires to submit a dispute to the  
Commission, it shall notify the  
President. The other Party shall  
also be informed at once of such  
notification. The President shall  
convene the Commission as soon as  
possible.

The Party which has submitted  
the dispute to the Commission shall  
notify the Secretary-General of the  
League of Nations.

ART. 8. The Commission shall  
meet at the seat of the League of  
Nations, unless, in special cases,  
the Parties decide otherwise.

ART. 9. The Parties shall supply  
the Commission with all the infor-  
mation which may be useful, and  
shall in every respect assist it in the  
accomplishment of its task.

The Commission may apply to  
the Secretary-General of the  
League of Nations for the assist-  
ance of the Secretariat if it appears  
that such assistance is necessary to  
facilitate its task.

ART. 10. The Parties shall be  
entitled to appoint special repre-  
sentatives on the Commission.  
These representatives shall also  
act as intermediaries between the  
Parties and the Commission.

ART. 11. Proceedings before the  
Commission shall not be public  
unless the Commission so decides  
and the Parties agree.

ART. 12. In proceedings before  
the Commission both Parties shall  
be heard.

The Commission shall draw up  
rules to govern its procedure, sub-  
ject to the proviso that the regula-  
tions laid down in Chapter III of the  
Hague Convention of October 18,  
1907, for the Pacific Settlement of

dre Nævnet enstemmig beslutter Afvigelse fra disse Regler.

International Disputes shall be applied unless the Commission unanimously agrees to depart from these regulations.

ART. 13. Nævnets Beslutninger træffes ved simpel Majoritet, naar intet andet er bestemt i nærværende Konvention. Hvert Medlem har en Stemme, og Formandens Stemme gør ved lige Stemmetail Udslaget.

Nævnet er beslutningsdygtig, hvis samtlige Medlemmer er behørigt indkaldt, og Formanden samt mindst to andre Medlemmer er tilstede.

ART. 13. The Commission shall take its decisions by a majority vote of its members except where otherwise laid down in the present Convention. Each member shall have one vote, and in case of a tie the President shall have a casting vote.

A quorum shall be constituted if all the members have been duly summoned, and if the President and not less than two other members are present.

ART. 14. Nævnet skal afgive Betænkning i enhver Tvist, som er henvist til det. Betænkningen skal indeholde et Forslag til Forlig, hvis Sagens Beskaffenhed dertil giver Anledning, og mindst tre af Nævnets Medlemmer er enige i saadant Forslag.

Afvigende Mening indenfor Nævnet skal sammen med Begrundelse for denne angives i Betænkningen.

ART. 14. The Commission shall make a report on each dispute submitted to it. The report shall include a proposal for the settlement of the dispute if a settlement is possible and if at least three members agree to the proposals.

The reasoned opinion of the members who are in the minority shall be recorded in the report.

ART. 15. Nævnet skal afslutte sit Arbejde inden seks Maaneder at regne fra det Tidspunkt, Tvisten er henvist til Nævnet, hvis Parterne ikke maatte blive enige om Forlængelse af denne Frist.

I ovennævnte Frist medregnes ikke den Tid, i hvilken Nævnets Virksomhed maatte have været afbrudt paa Grund af Bestemmelsen i Artikel 2.

ART. 15. The Commission shall complete its task within six months from the day when the dispute is submitted to it, unless the Parties agree to an extension of this period.

The above period shall not include any time during which the Commission's work is interrupted for reasons arising out of the provisions of Article 2.

ART. 16. Nævnets Betænkning undertegnes af Formanden og skal ufortøvet bringes til Parternes og Folkenes Forbunds Generalsekretærs Kundskab.

Parterne forpligter sig til indenfor rimelig Tid at underrette hinanden om, hvorvidt de godkender Betænkningens Indhold og

ART. 16. The Commission's report shall be signed by the President, who shall immediately bring it to the knowledge of the Parties and of the Secretary-General of the League.

The Parties undertake to inform each other within reasonable time as to how far they approve the

antager det Forslag til Forlig, som deri maatte være fremsat.

Det beror paa Overenskomst mellem Parterne, hvorvidt Nævnets Betænkning skal offentliggøres straks efter dens Afgivelse; dog kan Nævnet, hvor særlige Grunde foreligger, beslutte, at Betænkningen ogsaa uden saadan Overenskomst straks offentliggøres.

ART. 17. Vederlag til Nævnets Medlemmer for deres Arbejde med en til Nævnet henvist Tvist udredes saaledes, at hver af Parterne betaler Vederlag til de Medlemmer af Nævnet, som den selv har valgt, og yder Halvdelen af Formandens Vederlag.

Parterne bør søge at træffe Aftale om, at Vederlaget til de fra hver Side valgte Medlemmer udredes efter samme Grundsætninger.

Hver Part bærer selv sine egne Sagsomkostninger og Halvdelen af dem, som Nævnet erklærer for fælles.

ART. 18. Denne Konvention skal ratificeres, og Ratifikationerne skal udveksles i Kristiania, saa snart ske kan. Den træder i Kraft straks efter Ratifikationernes Udveksling og gælder fem Aar at regne fra dette Tidspunkt. Hvis den ikke inden seks Maaneder før Udløbet af nævnte Tidsrum er blevet opsagt, gælder den yderligere fem Aar og skal fremdeles anses for forlænget for Femårsperioder, hvis den ikke inden seks Maaneder før Udløbet af den nærmest foregaaende Femårsperiode er blevet opsagt.

Til Bekræftelse heraf har de respektive Befuldmægtigede undertegnet denne Konvention og forsynet den med deres Segl.

findings of the report and accept the settlement proposed therein.

The Parties shall decide, in agreement with one another, whether the Commission's report shall be published immediately after it has been issued; in special circumstances, however, the Commission may decide that the report shall be published at once, even in the absence of any such agreement.

ART. 17. Each Party shall pay the allowances of the members of the Commission which it has appointed, and shall also pay half of the allowances of the chairman.

The Parties shall endeavour to arrange that the allowances of the members of the Commission on both sides shall be fixed at the same figure.

Each Party shall bear the costs of procedure which it has incurred, and half of those which the Commission may declare to be joint costs.

ART. 18. The present Convention shall be ratified and the ratifications shall be exchanged at Christiania as soon as possible. It shall come into force as soon as the instruments of ratification have been exchanged, and shall remain in force for five years from that date. Unless denounced within six months before the expiration of this period, it shall remain in force for a further period of five years, and shall thereafter be regarded as renewed for successive periods of five years unless denounced within six months before the expiration of the preceding period of five years.

In faith whereof the Plenipotentiaries have signed the present Convention and thereto affixed their seals.

Udfærdiget i to Eksemplarer i	Done in duplicate, at Stockholm,
Stockholm den 27. Juni 1924.	on June 27, 1924:
Bent Falkenstjerne	Bent Falkenstjerne
J. H. Wollebæk	J. H. Wollebæk

## PERMANENT COMMISSION OF CONCILIATION

(Appointed July 31, 1925)

*President appointed by both Parties*VISCOUNT CECIL OF CHELWOOD. (*English.*)*Members appointed by Denmark*

P. J. JØRGENSEN, Professor at the University of Copenhagen. (*Danish.*)  
 J. HELLNER, former Judge of the Supreme Court of Sweden, former  
 Minister for Foreign Affairs of Sweden. (*Swedish.*)

*Members appointed by Norway*

JOHAN BREDAL, Advocate at the Supreme Court of Norway, former  
 Minister of Justice. (*Norwegian.*)  
 RAFAEL ERICH, Professor and former Prime Minister of Finland.  
 (*Finnish.*)

## No. 24

## DENMARK-SWEDEN: TREATY OF CONCILIATION

Signed at Stockholm June 27, 1924; ratifications exchanged March 7, 1925.<sup>1</sup>

Original text from Sweden, *Överenskommelser med främmande makter*, 1925, No. 4;<sup>2</sup>  
 English translation from League of Nations, *Treaty Series*, XXXIII, 159-165.

*(Translation)*

Hans Majestät Konungen av Sverige och Hans Majestät Konungen av Danmark och Island, vilka äro besjälade av önskan att främja utvecklingen av förlikningsförfarande i internationella tvister i en med akten för Nationernas förbund överensstämmande anda och som därvid velat för sin del förverkliga principerna i förbunds-församlingens resolution den 22 september 1922 om avslutande av konventioner rörande förliknings-

His Majesty the King of Denmark and His Majesty the King of Sweden, being desirous of promoting the development of the procedure of conciliation in international disputes in accordance with the spirit of the Covenant of the League of Nations, and being desirous of carrying into effect the principles laid down for this purpose in the resolution regarding the conclusion of conciliation Conventions which was adopted by the

<sup>1</sup> Amended by Protocol of Signature of Treaty between Denmark and Sweden signed January 14, 1926; see *infra*, No. 54.

<sup>2</sup> See also League of Nations, *Treaty Series*, XXXIII, 150. The Danish text is also authentic.

nämnder, hava överenskommit att i detta syfte avsluta en konvention och hava till sina fullmäktige utsett:

Hans Majestät Konungen av Sverige Sin Minister för Utrikes Ärendena Hans Excellens Friherre Erik Teodor Marks von Würtemberg;

och Hans Majestät Konungen av Danmark och Island Sin Chargé d'Affaires ad interim i Stockholm Bent Fritz Falkenstjerne,

vilka, därtill behörigen bemyndigade, överenskommit om följande artiklar:

ARTIKEL 1. De fördragsslutande parterna förplikta sig att till en stående nämnd, som upprättas på sätt nedan sägs, för undersökning och förlikning hänskjuta alla tvister, av vilket slag de vara må, som icke inom skälig tid kunna lösas på diplomatisk väg och icke enligt stadgan för den fasta mellanfolkliga domstolen eller annan överenskomelse mellan dem skola underkastas antingen sagda domstols eller skiljedomstols avgörande.

ART. 2. Därest tvist, som av ena parten hänskjutits till nämnden, av andra parten anhängiggöres vid domstol eller skiljedomstol på grund av bestämmelser, som avses i art. 1, skall nämnden uppskjuta handläggningen av tvisten i avbidan på domstolens eller skiljedomstolens beslut rörande sin behörighet.

Assembly of the League on September 22, 1922, have, for this purpose, agreed to conclude a Convention, and have appointed as their Plenipotentiaries the following:

His Majesty the King of Denmark:

M. Bent Fritz Falkenstjerne, His Chargé d'Affaires *a. i.* at Stockholm;

His Majesty the King of Sweden: His Excellency Baron Erik Teodor Marks von Würtemberg, Minister for Foreign Affairs;

Who, having been duly provided with full powers for that purpose, have agreed upon the following articles:

ARTICLE 1. The Contracting Parties undertake to refer to a Permanent Commission, to be appointed in the manner set forth below, for investigation and settlement by conciliation, all disputes of any nature whatever which it has not been possible to settle within reasonable time through diplomatic channels, and which should not, under the terms of the Statute of the Permanent Court of International Justice or of any other agreement between the Parties, be submitted either to the Permanent Court or to a Court of Arbitration.

ART. 2. When a dispute, which has been referred to the Commission by one of the Parties, has been brought before the Permanent Court or a Court of Arbitration by the other Party under the terms of Article 1, the Commission shall postpone its investigation of the dispute until the Permanent Court or the Court of Arbitration shall have determined the question of competence in the case.

ART. 3. Nämnden skall bestå av fem medlemmar. Vardera parten utser två av dessa, av vilka en kan väljas bland statens egna medborgare. Den femte medlemmen, vilken skall vara nämndens ordförande, skall vara av annan nationalitet än nämndens övriga medlemmar. Ordföranden utses av parterna i förening. Skulle dessa icke kunna enas om valet, skall han efter anmodan av endera parten utses av presidenten för den fasta mellanfolkliga domstolen eller, därest denne är medborgare i någon av de fördragsslutande staterna, av domstolens vice president.

Nämnden skall vara tillsatt inom sex månader efter utväxlingen av ratifikationerna till denna konvention.

ART. 4. Nämndens medlemmar utses för en tid av tre år. Deras uppdrag kan ej återkallas under mandatstiden, med mindre parterna äro därom ense. I händelse medlem dör eller avgår från sin befattning, skall för återstoden av mandatstiden en annan utses i hans ställe, såvitt möjligt inom två månader därefter, och i varje fall så snart tvist hänskjutits till nämnden.

ART. 5. Inom loppet av fjorton dagar från det någondera parten hänskjutit tvist till nämnden, äger part att för behandling av ifrågasvarande tvist ersätta den ene av de från hans sida utsedda medlemmarna med en person, som i den föreliggande frågan äger speciell sakkunskap, dock med iakttagande av den i art. 3 stadgade regeln rörande medlemmarnas nationalitet.

Part, som vill begagna denna rätt, skall därom genast under-

ART. 3. The Commission shall be composed of five members. Each Party shall appoint two members, one of which may be a national of the appointing State. The fifth member, who shall act as chairman of the Commission, shall be a national of a State not otherwise represented on the Commission. He shall be appointed jointly by the Parties. Should the Parties be unable to agree, the chairman shall, at the request of one of the Parties, be appointed by the President of the Permanent Court of International Justice, or, should the latter be a national of one of the Contracting States, by the Vice-President of the Court.

The Commission shall be appointed within six months after the ratifications of the present Convention have been exchanged.

ART. 4. The members of the Commission shall be appointed for three years. They shall be irremovable during their period of office unless the Parties agree otherwise. In the event of the death or retirement of a member, the vacancy must be filled for the remainder of his term of office within the next two months if possible, but, in any case, as soon as a dispute has been submitted to the Commission.

ART. 5. Either of the Parties may, within fourteen days after one of them has submitted a dispute to the Commission, replace one of the members whom it has appointed by a person specially qualified to deal with the particular case before the Commission, subject, however, to the rules laid down in Article 3 with regard to the nationality of members.

If one Party desires to avail itself of this right, it shall at once inform the other Party, which may

rätta motparten, och äger i ty fall denne att inom fjorton dagar, sedan han erhållit underrättelsen, vidtaga motsvarande åtgärd.

ART. 6. Om vid utgången av en medlems mandatstid annan medlem ej blivit i hans ställe utsedd, skall hans mandat anses förnyat på tre år; dock att ordförandens mandat skall upphöra vid mandattidens utgång, därest detta dessförinnan påyrkats av endera av parterna.

Medlem, vars mandat utgår, medan en tvist beror på nämndens handläggning, skall, ändå att efterträdare blivit utsedd, fortsätta att deltaga i handläggningen av tvisten till dess den avslutats.

ART. 7. Tvist hänskjutes till nämnden genom meddelande från en av de fördragsslutande parterna till nämndens ordförande. Sådant meddelande skall omedelbart delgivas andra parten. Ordföranden skall snarast möjligt sammankalla nämnden.

Meddelande om tvistens hänskjutande till nämnden skall av vederbörande part tillställas Nationernas förbunds generalsekreterare för kännedom.

ART. 8. Nämnden skall sammanträda å den ort, där Nationernas förbund har sitt säte, såvida icke parterna för särskilt fall annorlunda överenskommit.

ART. 9. Parterna förbinda sig att tillställa nämnden alla erforderliga upplysningar samt i övrigt bereda nämnden alla för fullgörande av dess uppdrag erforderliga lätnader.

Nämnden äger att hos Nationernas förbunds generalsekreterare anhålla om sekretariatets bistånd, där detta är för nämndens verksamhet behöfligt.

take a similar step within fourteen days of receiving such notification.

ART. 6. If, at the end of his term of office, a member of the Commission has not been replaced, his term shall be considered as renewed for a period of three years. The chairman, however, shall, at the request of one of the Parties, cease to hold office at the end of his appointed term.

If a member's term of office expires in the course of proceedings in connection with a dispute, he shall continue to take part in such proceedings until the dispute has been settled, even if his successor has been appointed.

ART. 7. When one of the Parties desires to submit a dispute to the Commission, it shall notify the president. The other Party shall also be informed at once of such notification. The president shall convene the Commission as soon as possible.

The Party which has submitted the dispute to the Commission shall notify the Secretary-General of the League of Nations.

ART. 8. The Commission shall meet at the seat of the League of Nations unless, in special cases, the Parties decide otherwise.

ART. 9. The Parties shall supply the Commission with all the information which may be useful, and shall in every respect assist it in the accomplishment of its task.

The Commission may apply to the Secretary-General of the League of Nations for the assistance of the Secretariat if it appears that such assistance is necessary to facilitate its task.

ART. 10. Parterna äga rätt att utse särskilda ombud hos nämnden, vilka även skola tjäna såsom mellanhand mellan dem och nämnden.

ART. 11. Förhandlingarna inför nämnden äro ej offentliga med mindre nämnden med parternas samtycke annorledes beslutar.

ART. 12. Förfarandet inför nämnden är kontradiktoriskt.

Nämnden skall i övrigt själv fastställa reglerna för förfarandet, dock att bestämmelserna i avdelning III i Haag-konventionen den 18 oktober 1907 för avgörande på fredlig väg av internationella tvister skola tillämpas med mindre nämnden genom enhälligt beslut annorlunda bestämmer.

ART. 13. Beslut av nämnden fattas med enkel majoritet, där ej annorledes i denna konvention stadgas. Varje medlem äger en röst och ordföranden vid lika röstetal utslagsröst. Nämnden är beslutsmässig, om samtliga medlemmar erhållit vederbörlig kallelse till sammanträdet och ordföranden jämte minst två andra medlemmar äro närvarande.

ART. 14. Nämnden skall avgiva betänkande i varje tvist, som hänskjutits till densamma. Betänkandet skall innehålla ett förslag till förlikning, om sakens beskaffenhet därtill giver anledning och minst tre av nämndens medlemmar förena sig om dylikt förslag.

Avvikande mening inom nämnden skall jämte motivering för densamma angivas i betänkandet.

ART. 15. Nämnden bör avsluta sitt arbete inom sex månader från

ART. 10. The Parties shall be entitled to appoint special representatives on the Commission. These representatives shall also act as intermediaries between the Parties and the Commission.

ART. 11. Proceedings before the Commission shall not be public unless the Commission so decides and the Parties agree.

ART. 12. In proceedings before the Commission both Parties shall be heard.

The Commission shall draw up rules to govern its procedure, subject to the proviso that the regulations laid down in Chapter III of the Hague Convention of 18 October 1907, for the pacific settlement of international disputes shall be applied unless the Commission unanimously agrees to depart from these regulations.

ART. 13. The Commission shall take its decisions by a majority vote of its members except where otherwise laid down in the present Convention. Each member shall have one vote, and in case of a tie the president shall have a casting vote.

A quorum shall be constituted if all the members have been duly summoned, and if the president and not less than two other members are present.

ART. 14. The Commission shall make a report on each dispute submitted to it. The report shall include a proposal for the settlement of the dispute if a settlement is possible and if at least three members agree to the proposals.

The reasoned opinion of the members who are in the minority shall be recorded in the report.

ART. 15. The Commission shall complete its task within six months



det tvisten hänskjutits till nämnden, parterna likväl obetaget att överenskomma om förlängning av denna tidrymd.

I ovannämnda tidrymd inräknas ej tid, varunder nämndens verksamhet varit avbruten på grund av bestämmelsen i art. 2.

ART. 16. Nämndens betänkande undertecknas av ordföranden och skall ofördröjligen bringas till parterna och Nationernas förbunds generalsekreterares kännedom.

Parterna förpliktat sig att inom skälig tid underrätta varandra, huruvida de godkänna betänkandets innehåll och antaga det förläkningsförslag, som däri må hava framställts.

På överenskommelse mellan parterna beror, huruvida nämndens betänkande skall publiceras omedelbart efter dess avgivande; dock kan nämnden, där synnerliga skäl föreligga, besluta, att betänkandet även utan sådan överenskommelse skall omedelbart offentliggöras.

ART. 17. Ersättning till medlemmarna av nämnden för deras befattning med en till nämnden hänskjuten tvist utgår sålunda, att vardera parten utbetalar ersättning till de av honom utsedda medlemmarna och hälften av ersättningen till ordföranden.

Parterna böra söka träffa överenskommelse i syfte att ersättning skall utgå efter samma grunder till de från vardera sidan utsedda medlemmarna.

Vardera parten har att själv vidkännas sina utgifter i anledning av förfarandet samt hälften av dem, som av nämnden prövats vara gemensamma.

ART. 18. Denna konvention skall ratificeras och ratifikationerna utväxlas i Köpenhamn så snart ske

from the day when the dispute is submitted to it, unless the Parties agree to an extension of this period.

The above period shall not include any time during which the Commission's work is interrupted for reasons arising out of the provisions of Article 2.

ART. 16. The Commission's report shall be signed by the president, who shall immediately bring it to the knowledge of the Parties and of the Secretary-General of the League.

The Parties undertake to inform each other within reasonable time as to how far they approve the findings of the report and accept the settlement proposed therein.

The Parties shall decide, in agreement with one another, whether the Commission's report shall be published immediately after it has been issued; in special circumstances, however, the Commission may decide that the report shall be published at once, even in the absence of any such agreement.

ART. 17. Each Party shall pay the allowances of the members of the Commission which it has appointed, and shall also pay half of the allowances of the chairman.

The Parties shall endeavour to arrange that the allowances of the members of the Commission on both sides shall be fixed at the same figure.

Each Party shall bear the costs of procedure which it has incurred, and half of those which the Commission may declare to be joint costs.

ART. 18. The present Convention shall be ratified and the ratifications shall be exchanged at

kan. Den träder i kraft omedelbart efter ratifikationernas utväxlande och gäller fem år räknat från denna tidpunkt. Därest den ej senast sex månader före utgången av nämnda tidrymd blivit uppsagd, skall den gälla ytterligare fem år; och skall den allt framgent anses förlängd för en tidrymd av fem år, om den icke minst sex månader före utgången av närmast föregående femårsperiod blivit uppsagd.

Till bekräftelse härav hava de respektive fullmäktige undertecknat denna konvention och försett densamma med sina sigill.

Som skedde i Stockholm, i två exemplar, den 27 juni 1924.

E. Marks von Würtemberg  
Bent Falkenstjerne

Copenhagen as soon as possible. It shall come into force as soon as the instruments of ratification have been exchanged, and shall remain in force for five years from that date. Unless denounced within six months before the expiration of this period, it shall remain in force for a further period of five years and shall thereafter be regarded as renewed for successive periods of five years unless denounced within six months before the expiration of the preceding period of five years.

In faith whereof the Plenipotentiaries have signed the present Convention and thereto affixed their seals.

Done in duplicate, at Stockholm, on June 27, 1924.

Bent Falkenstjerne  
E. Marks von Würtemberg

#### PERMANENT COMMISSION OF CONCILIATION

(Appointed December 1, 1925)

##### *President appointed by both Parties*

C. D. BOURCART, former Swiss Minister to Austria. (*Swiss.*)

##### *Members appointed by Denmark*

E. TROLLE, Counsellor at the Supreme Court of Denmark. (*Danish.*)

V. SCIALOJA, Senator, former Minister for Foreign Affairs of Italy. (*Italian.*)

##### *Members appointed by Sweden*

ELIEL LÖFGREN, Minister for Foreign Affairs of Sweden. (*Swedish.*)

CHARLES DE VISSCHER, Professor at the University of Ghent. (*Belgian.*)

## No. 25

## FINLAND-NORWAY: TREATY OF CONCILIATION

Signed at Stockholm June 27, 1924; ratifications exchanged August 4, 1924.<sup>1</sup>

Original text from Finland, *Överenskommelser med främmande makter*, 1924, No. 36;<sup>2</sup>  
English translation from League of Nations, *Treaty Series*, XXIX, 416-419.

(Translation)

Le Président de la République de Finlande et Sa Majesté le Roi de Norvège, animés du désir de favoriser le développement de la procédure de conciliation des différends internationaux dans un esprit conforme au Pacte de la Société des Nations,

décidés à réaliser, dans les rapports entre les deux États, les principes de la résolution de l'Assemblée de la Société des Nations en date du 22 septembre 1922, tendant à l'institution de commissions de conciliation par voie de conventions entre les États,

ont résolu de conclure à cet effet une Convention et ont nommé Leurs plénipotentiaires, savoir:

le Président de la République de Finlande:

Monsieur le Dr. Werner Söderhjelm, Envoyé Extraordinaire et Ministre Plénipotentiaire de la République à Stockholm, et

Sa Majesté le Roi de Norvège:

Monsieur Johan Herman Wollebæk, Son Envoyé Extraordinaire et Ministre Plénipotentiaire à Stockholm,

lesquels, dûment autorisés à cet effet, son convenus des articles suivants:

ARTICLE 1<sup>er</sup>. Les Parties contractantes s'engagent à soumettre,

The President of the Finnish Republic and His Majesty the King of Norway, being desirous of promoting the development of the procedure of conciliation in international disputes in accordance with the spirit of the Covenant of the League of Nations, and being desirous of carrying into effect the principles laid down in the Resolution regarding the conclusion of conciliation conventions which was adopted by the Assembly of the League, on September 22, 1922, have for this purpose agreed to conclude a Convention, and have appointed as their Plenipotentiaries the following:

The President of the Finnish Republic:

Dr. Werner Söderhjelm, Envoy Extraordinary and Minister Plenipotentiary at Stockholm,

His Majesty the King of Norway:

M. Johan Herman Wollebæk, His Envoy Extraordinary and Minister Plenipotentiary at Stockholm, who, having been duly appointed with full powers for that purpose, have agreed upon the following articles:

ARTICLE 1. The Contracting Parties undertake to refer to a Per-

<sup>1</sup> Amended by Protocol of Signature of Treaty between Finland and Norway, signed February 3, 1926; see *infra*, No. 59.

<sup>2</sup> See also League of Nations, *Treaty Series*, XXIX, 404. The treaty is drafted in French, Finnish, Norwegian, and Swedish. The French text is authoritative.

aux fins d'enquête et de conciliation, à une Commission permanente, constituée dans les conditions prévues ci-dessous, tous différends, de quelque nature qu'ils soient, qui n'auraient pu être résolus par la voie diplomatique dans un délai raisonnable et qui ne doivent pas être déferés, aux termes, soit du Statut de la Cour Permanente de Justice Internationale, soit de tout autre accord conclu entre Elles, à la dite Cour ou à un tribunal d'arbitrage.

ART. 2. Si un différend, dont l'une des Parties a saisi la Commission, est porté par l'autre Partie, conformément aux dispositions visées à l'article 1<sup>er</sup>, devant la Cour Permanente ou un tribunal d'arbitrage, la Commission suspendra l'examen du différend jusqu'à ce que la Cour ou le tribunal ait statué sur la compétence.

ART. 3. La Commission se compose de cinq membres. Chaque Etat en désigne deux, dont l'un peut être choisi parmi ses propres nationaux. Le cinquième, qui remplit les fonctions de Président, doit appartenir à une autre nationalité qu'à celles des autres membres de la Commission. Le Président est désigné d'un commun accord par les Parties. Au cas où cet accord ne pourrait s'établir, sa nomination sera effectuée à la requête de l'une des Parties, par le Président de la Cour Permanente de Justice Internationale ou, si celui-ci est ressortissant d'un des Etats contractants, par le Vice-Président de la Cour.

La Commission devra être constituée dans les six mois qui suivront l'échange des ratifications de la présente Convention.

manent Commission, to be appointed in the manner set forth below, for investigation and settlement by conciliation, all disputes of any nature whatever which it has not been possible to settle within reasonable time through diplomatic channels and which should not, under the terms of the Statute of the Permanent Court of International Justice or of any other agreement between the Parties, be submitted either to the Permanent Court or to a Court of Arbitration.

ART. 2. When a dispute which has been referred to the Commission by one of the Parties has been brought before the Permanent Court or a Court of Arbitration by the other Party under the terms of Article 1, the Commission shall postpone its investigation of the dispute until the Permanent Court or the Court of Arbitration shall have determined the question of competence in the case.

ART. 3. The Commission shall be composed of five members. Each Party shall appoint two members, one of which may be a national of the appointing State. The fifth member, who shall act as Chairman of the Commission, shall be a national of a third State not otherwise represented on the Commission. He shall be appointed jointly by the Parties. Should the Parties be unable to agree, the Chairman shall, at the request of one of the Parties, be appointed by the President of the Permanent Court of International Justice or, should the latter be a national of one of the Contracting States, by the Vice-President of the Court.

The Commission shall be appointed within six months after ratifications of the present Convention have been exchanged.

ART. 4. Les Membres de la Commission sont nommés pour trois ans. Sauf accord contraire entre les Parties, ils ne pourront pas être révoqués pendant la durée de leur mandat. En cas de décès ou de retraite de l'un d'eux il devra être pourvu à son remplacement pour le reste de la durée de son mandat, si possible dans les deux mois qui suivront et, en tout cas, aussitôt qu'un différend aura été soumis à la Commission.

ART. 5. Dans un délai de quinze jours, à dater de celui où l'un des Etats contractants aura porté un différend devant la Commission, chacune des Parties pourra, pour l'examen du litige visé, remplacer l'un des membres désignés par Elle par une personne possédant une compétence spéciale dans la matière, sous réserve, toutefois, de la règle stipulée à l'article 3 concernant la nationalité des membres de la Commission.

La Partie qui voudrait user de ce droit, en avertira immédiatement la Partie adverse; dans ce cas, Celle-ci a la faculté d'user du même droit, dans un délai de quinze jours à partir de celui où l'avertissement Lui est parvenu.

ART. 6. Si, à l'expiration du mandat d'un membre, il n'est pas pourvu à son remplacement, son mandat est censé renouvelé pour une période de trois ans; toutefois, sur la demande de l'une des Parties, les fonctions du Président doivent cesser à la fin de son mandat.

Un membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part à l'examen du différend jusqu'à ce que la procédure soit terminée, nonobstant le fait que son remplaçant ait été désigné.

ART. 4. The members of the Commission shall be appointed for three years. They shall be irremovable during their term of office unless the Parties agree otherwise. In the event of the death or retirement of a member, the vacancy must be filled for the remainder of his term of office within, if possible, the next two months, but in any case as soon as a dispute has been submitted to the Commission.

ART. 5. Either of the Parties may, within fifteen days after one of them has submitted a dispute to the Commission, replace one of the members whom it has appointed by a person specially qualified to deal with the particular case before the Commission, subject, however, to the rules laid down in Article 3 with regard to the nationality of members.

If one Party desires to avail itself of this right, it shall at once inform the other Party, which may take a similar action within fifteen days of receiving such notification.

ART. 6. If, at the end of his term of office, a member of the Commission has not been replaced, his term shall be considered as renewed for a period of three years. The Chairman, however, shall, at the request of one of the Parties, cease to hold office at the end of his appointed term.

If a member's term of office expires in the course of proceedings in connection with a dispute, he shall continue to take part in such proceedings until the dispute has been settled, even if his successor has been appointed.

ART. 7. Les différends sont portés devant la Commission par la notification qui en est faite par l'une des Parties au Président de la Commission. Cette notification doit être portée immédiatement à la connaissance de la Partie adverse. Le Président doit convoquer la Commission dans le plus bref délai.

La Partie ayant saisi la Commission du différend en avisera le Secrétaire général de la Société des Nations.

ART. 8. La Commission se réunit au siège de la Société des Nations, à moins que les Parties ne lui aient assigné, dans un cas particulier, un autre lieu de réunion.

ART. 9. Les Parties s'engagent à fournir à la Commission toutes les informations utiles et à lui faciliter, à tous égards, l'accomplissement de sa tâche.

La Commission pourra demander au Secrétaire général de la Société des Nations l'assistance du Secrétariat, si la Commission en a besoin pour ses travaux.

ART. 10. Les Parties ont le droit de nommer des agents spéciaux auprès de la Commission qui devront en même temps servir d'intermédiaires entre Elles et la Commission.

ART. 11. Les débats devant la Commission ne sont publics que si la Commission, d'accord avec les Parties, en décide ainsi.

ART. 12. La procédure devant la Commission est contradictoire.

La Commission règlera elle-même la procédure, en tenant compte, à défaut d'une décision contraire prise à l'unanimité, des dispositions contenues au titre III de la Convention de la Haye pour

ART. 7. When one of the Parties desires to submit a dispute to the Commission, it shall notify the President. The other Party shall also be informed at once of such notification. The President shall convene the Commission as soon as possible.

The Party which has submitted the dispute to the Commission shall notify the Secretary-General of the League of Nations.

ART. 8. The Commission shall meet at the seat of the League of Nations unless in a special case the Parties decide otherwise.

ART. 9. The Parties shall supply the Commission with all the information which may be useful and shall in every respect assist it in the accomplishment of its task.

The Commission may apply to the Secretary-General of the League of Nations for the assistance of the Secretariat if it appears that such assistance is necessary to facilitate its task.

ART. 10. The Parties shall be entitled to appoint special representatives on the Commission; these representatives shall also act as intermediaries between the Parties and the Commission.

ART. 11. Proceedings before the Commission shall not be public unless the Commission so decides and the Parties agree.

ART. 12. In proceedings before the Commission both Parties shall be heard.

The Commission shall draw up rules to govern its procedure, subject to the proviso that the regulations laid down in Chapter III of the Hague Convention of October

le règlement pacifique des conflits internationaux, du 18 octobre 1907.

ART. 13. Sous réserve des dispositions contraires de la présente Convention, les décisions de la Commission sont prises à la majorité simple. Chaque membre dispose d'une voix, celle du Président étant décisive en cas de partage. La Commission peut délibérer valablement si tous les membres ont été dûment convoqués et si le Président et au moins deux autres membres sont présents.

ART. 14. La Commission fera un rapport sur chaque différend qui lui a été soumis. Le rapport comportera un projet de règlement du différend, si les circonstances y donnent lieu et si trois au moins des membres de la Commission se mettent d'accord sur un tel projet.

L'avis motivé des membres restés en minorité sera consigné dans le rapport.

ART. 15. Sous réserve du droit des Parties de prolonger ce délai, la Commission doit achever ses travaux dans un délai de six mois, à dater du jour où le différend a été porté devant la Commission.

Le temps durant lequel les travaux de la Commission sont suspendus selon les dispositions de l'article 2 n'est pas compris dans le délai susmentionné.

ART. 16. Le rapport de la Commission est signé par le Président et porté sans délai à la connaissance des Parties et du Secrétaire général de la Société des Nations.

Les Parties s'engagent à porter à leur connaissance réciproque dans un délai raisonnable si Elles acceptent les constatations du rap-

18, 1907, for the pacific settlement of international disputes shall be applied, unless the Commission unanimously agrees to depart from these regulations.

ART. 13. The Commission shall take its decisions by a majority vote of its members except where otherwise laid down in the present Convention.

Each member shall have one vote, and in case of a tie the President shall have a casting vote.

A quorum shall be constituted if all the members have been duly summoned, and if the President and not less than two other members are present.

ART. 14. The Commission shall make a report on each dispute submitted to it. The report shall include a proposal for the settlement of the dispute, if a settlement is possible, and if at least three members agree to the proposal. The reasoned opinion of the members who are in the minority shall be recorded in the report.

ART. 15. The Commission shall complete its task within six months from the day when the dispute is submitted to it, unless the Parties agree to an extension of this period.

The above period shall not include any time during which the Commission's work is interrupted for reasons arising out of the provisions of Article 2.

ART. 16. The Commission's report shall be signed by the President, who shall immediately bring it to the knowledge of the Parties and of the Secretary-General of the League of Nations.

The Parties undertake to inform each other within reasonable time as to how far they approve the

port et les propositions qu'il renferme.

Il appartient aux Parties de décider, d'un commun accord, si le rapport de la Commission doit être publié immédiatement. Toutefois, même à défaut de cet accord, la Commission pourra, en cas de raisons spéciales, procéder à la publication immédiate du rapport.

ART. 17. Chacune des Parties indemniserà les membres de la Commission nommés par Elle et fournira la moitié de l'indemnité du Président.

Les Parties doivent chercher à s'entendre pour que, des deux côtés, les indemnités des membres de la Commission soient fixées d'après les mêmes chiffres.

Chaque Partie supportera les frais de procédure encourus par Elle et la moitié de ceux déclarés communs par la Commission.

ART. 18. La présente convention est rédigée en langues finnoise, suédoise, norvégienne et française. Dans toutes les questions relatives à son interprétation, c'est le texte français qui fera foi.

La présente convention sera ratifiée et les ratifications seront échangées à Helsingfors aussitôt que faire se pourra. Elle entrera en vigueur immédiatement après l'échange des ratifications et aura une durée de cinq années à dater de l'échange des ratifications. Si elle n'a pas été dénoncée six mois au moins avant l'expiration de ce délai, elle restera en vigueur pendant une nouvelle période de cinq ans et sera ainsi de suite censée renouvelée chaque fois pour cinq ans, sauf dénonciation six mois au moins avant l'expiration de la précédente période de cinq ans.

findings of the Report and accept the settlement proposed therein.

The Parties shall decide in agreement with one another whether the Commission's report shall be published immediately after it has been issued. In special circumstances, however, the Commission may decide that the report shall be published at once, even in the absence of any such agreement.

ART. 17. Each Party shall pay the allowances of the members of the Commission which it has appointed and shall also pay half the allowances of the Chairman.

The Parties shall endeavour to arrange that the allowances of the members of the Commission on both sides shall be fixed at the same figure.

Each Party shall bear the costs of procedure which it has incurred and half of those which the Commission may declare to be joint costs.

ART. 18. The present Convention is drafted in Finnish, Swedish, Norwegian and French. In questions concerning its interpretation, the French text shall be authoritative.

The present Convention shall be ratified and the ratifications exchanged at Helsingfors as soon as possible. It shall come into force as soon as the instruments of ratification have been exchanged and shall remain in force for five years from that date. Unless denounced within six months before the expiration of this period, it shall remain in force for a further period of five years and shall thereafter be regarded as renewed for successive periods of five years, unless denounced within six months before the expiration of the preceding period of five years.



En foi de quoi les plénipotentiaires respectifs ont signé la présente convention et y ont apposé leurs cachets.

Fait à Stockholm, en deux exemplaires, le 27 juin 1924.

Werner Söderhjelm  
J. H. Wollbeck

In faith whereof, the Plenipotentiaries have signed the present Convention and thereto affixed their seals.

Done in duplicate, at Stockholm, June 27, 1924.

Werner Söderhjelm  
J. H. Wollbeck

#### PERMANENT COMMISSION OF CONCILIATION

(Appointed April 4, 1925)

##### *President appointed by both Parties*

PAUL HYMANS, former Minister for Foreign Affairs of Belgium. (*Belgian.*)

##### *Members appointed by Finland*

RAFAEL ERICH, Professor and former Prime Minister of Finland. (*Finnish.*)

KNUD BERLIN, Professor at the University of Copenhagen. (*Danish.*)

##### *Members appointed by Norway*

ARNOLD RAESTAD, former Minister for Foreign Affairs of Norway. (*Norwegian.*)

BARON ERIK TEODOR MARKS VON WÜRTEMBERG, President of the Court of Appeal at Stockholm, former Minister for Foreign Affairs of Sweden. (*Swedish.*)

### No. 26

#### FINLAND-SWEDEN: TREATY OF CONCILIATION

Signed at Stockholm June 27, 1924; ratifications exchanged September 13, 1924.<sup>1</sup>

Original text from Sweden, *Överenskommelser med främmande makter*, 1924, No. 23;<sup>2</sup> English translation from League of Nations, *Treaty Series*, XXIX, 29-35.

##### *(Translation)*

Sa Majesté le Roi de Suède et le Président de la République de Finlande, animés du désir de favoriser le développement de la procédure de conciliation des différends internationaux dans un esprit conforme au Pacte de la Société des Nations,

His Majesty the King of Sweden and the President of the Finnish Republic, being desirous of promoting the development of the procedure of conciliation in international disputes in accordance with the spirit of the Covenant of the League of Nations, and being

<sup>1</sup> Amended by Protocol of Signature of Treaty between Finland and Sweden, signed January 29, 1926; see *infra*, No. 56.

<sup>2</sup> See also League of Nations, *Treaty Series*, XXIX, 28. The treaty is drafted in French, Finnish, and Swedish. The French text is authoritative.

décidés à réaliser, dans les rapports entre les deux Etats, les principes de la résolution de l'Assemblée de la Société des Nations en date du 22 septembre 1922, tendant à l'institution de commissions de conciliation par voie de conventions entre les Etats,

ont résolu de conclure à cet effet une Convention et ont nommé Leurs plénipotentiaires, savoir:

Sa Majesté le Roi de Suède:

Monsieur le Baron Erik Teodor Marks von Würtemberg, Son Ministre des Affaires Etrangères, et le Président de la République de Finlande:

Monsieur le Dr. Werner Söderhjelm, Envoyé Extraordinaire et Ministre Plénipotentiaire de la République à Stockholm,

lesquels, dûment autorisés à cet effet, sont convenus des articles suivants:

ARTICLE 1<sup>er</sup>. Les Parties contractantes s'engagent à soumettre, aux fins d'enquête et de conciliation, à une Commission permanente, constituée dans les conditions prévues ci-dessous, tous différends, de quelque nature qu'ils soient, qui n'auraient pu être résolus par la voie diplomatique dans un délai raisonnable et qui ne doivent pas être déferés, aux termes, soit du Statut de la Cour Permanente de Justice Internationale, soit de tout autre accord conclu entre Elles, à la dite Cour ou à un tribunal d'arbitrage.

ART. 2. Si un différend, dont l'une des Parties a saisi la Commission, est porté par l'autre Partie, conformément aux dispositions visées à l'article 1<sup>er</sup>, devant la Cour Permanente ou un tribunal d'arbitrage, la Commission suspendra l'examen du différend jusqu'à ce

desirous of carrying into effect the principles laid down in the Resolution regarding the conclusion of conciliation Conventions which was adopted by the Assembly of the League of Nations, on September 22, 1922, have for this purpose agreed to conclude a Convention, and have appointed as their Plenipotentiaries the following:

His Majesty the King of Sweden:

His Excellency Baron Eric Teodor Marks von Würtemberg, Minister for Foreign Affairs,

The President of the Finnish Republic:

Dr. Werner Söderhjelm, Envoy Extraordinary and Minister Plenipotentiary at Stockholm,

who, having been duly appointed with full powers for that purpose, have agreed upon the following articles:

ARTICLE 1. The Contracting Parties undertake to refer to a Permanent Commission, to be appointed in the manner set forth below, for investigation and settlement by conciliation, all disputes of any nature whatever which it has not been possible to settle within reasonable time through diplomatic channels and which should not, under the terms of the Statute of the Permanent Court of International Justice or of any other agreement between the Parties, be submitted either to the Permanent Court or to a Court of Arbitration.

ART. 2. When a dispute which has been referred to the Commission by one of the Parties has been brought before the Permanent Court or a Court of Arbitration by the other Party under the terms of Article 1, the Commission shall postpone its investigation of the

que la Cour ou le tribunal ait statué sur la compétence.

ART. 3. La Commission se compose de cinq membres. Chaque Etat en désigne deux, dont l'un peut être choisi parmi ses propres nationaux. Le cinquième, qui remplit les fonctions de Président, doit appartenir à une autre nationalité qu'à celles des autres membres de la Commission. Le Président est désignée d'un commun accord par les Parties. Au cas où cet accord ne pourrait s'établir, sa nomination sera effectué à la requête de l'une des Parties, par le Président de la Cour Permanente de Justice Internationale ou, si celui-ci est ressortissant d'un des Etats contractants, par le Vice-Président de la Cour.

La Commission devra être constituée dans les six mois qui suivront l'échange des ratifications de la présente Convention.

ART. 4. Les Membres de la Commission sont nommés pour trois ans. Sauf accord contraire entre les Parties, ils ne pourront pas être révoqués pendant la durée de leur mandat. En cas de décès ou de retraite de l'un d'eux il devra être pourvu à son remplacement pour le reste de la durée de son mandat, si possible dans les deux mois qui suivront et, en tout cas, aussitôt qu'un différend aura été soumis à la Commission.

ART. 5. Dans un délai de quinze jours, à dater de celui où l'un des Etats contractants aura porté un différend devant la Commission, chacune des Parties pourra, pour l'examen du litige visé, remplacer l'un des membres désignés par Elle par une personne possédant une compétence spéciale dans la ma-

dispute until the Permanent Court or the Court of Arbitration shall have determined the question of competence in the case.

ART. 3. The Commission shall be composed of five members. Each Party shall appoint two members, one of which may be a national of the appointing State. The fifth member, who shall act as Chairman of the Commission, shall be a national of a State not otherwise represented on the Commission. He shall be appointed jointly by the Parties. Should the Parties be unable to agree, the Chairman shall, at the request of one of the Parties, be appointed by the President of the Permanent Court of International Justice or, should the latter be a national of one of the Contracting States, by the Vice-President of the Court.

The Commission shall be appointed within six months after the ratifications of the present Convention have been exchanged.

ART. 4. The members of the Commission shall be appointed for three years. They shall be irremovable during their term of office unless the Parties agree otherwise. In the event of the death or retirement of a member, the vacancy must be filled for the remainder of his term of office, within, if possible, the next two months, but in any case as soon as a dispute has been submitted to the Commission.

ART. 5. Either of the Parties may, within fifteen days after one of them has submitted a dispute to the Commission, replace one of the members whom it has appointed by a person specially qualified to deal with the particular case before the Commission, subject, however, to the rules laid down in Article 3

tière, sous réserve, toutefois, de la règle stipulée à l'article 3 concernant la nationalité des membres de la Commission.

La Partie qui voudrait user de ce droit, en avertira immédiatement la Partie adverse; dans ce cas, celle-ci a la faculté d'user du même droit, dans un délai de quinze jours à partir de celui où l'avertissement lui est parvenu.

ART. 6. Si, à l'expiration du mandat d'un membre, il n'est pas pourvu à son remplacement, son mandat est censé renouvelé pour une période de trois ans; toutefois, sur la demande de l'une des Parties, les fonctions du Président doivent cesser à la fin de son mandat.

Un membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part à l'examen du différend jusqu'à ce que la procédure soit terminée, nonobstant le fait que son remplaçant ait été désigné.

ART. 7. Les différends sont portés devant la Commission par la notification qui en est faite par l'une des Parties au Président de la Commission. Cette notification doit être portée immédiatement à la connaissance de la Partie adverse. Le Président doit convoquer la Commission dans le plus bref délai.

La Partie ayant saisi la Commission du différend en avisera le Secrétaire général de la Société des Nations.

ART. 8. La Commission se réunit au siège de la Société des Nations, à moins que les Parties ne lui aient assigné, dans un cas particulier, un autre lieu de réunion.

ART. 9. Les Parties s'engagent à fournir à la Commission toutes les informations utiles et à lui faci-

with regard to the nationality of members.

If one Party desires to avail itself of this right, it shall at once inform the other Party, which may take a similar step within fifteen days of receiving such notification.

ART. 6. If, at the end of his term of office, a member of the Commission has not been replaced, his term of office shall be considered as renewed for a period of three years. The Chairman, however, shall, at the request of one of the Parties, cease to hold office at the end of his appointed term.

If a member's term of office expires in the course of proceedings in connection with a dispute, he shall continue to take part in such proceedings until the dispute has been settled, even if his successor has been appointed.

ART. 7. When one of the Parties desires to submit a dispute to the Commission, it shall notify the President. The other Party shall also be informed at once of such notification. The President shall convene the Commission as soon as possible.

The Party which has submitted the dispute to the Commission shall notify the Secretary-General of the League of Nations.

ART. 8. The Commission shall meet at the seat of the League of Nations unless, in special cases, the Parties decide otherwise.

ART. 9. The Parties shall supply the Commission with all the information which may be useful and

liter, à tous égards, l'accomplissement de sa tâche.

La Commission pourra demander au Secrétaire général de la Société des Nations l'assistance du Secrétariat, si la Commission en a besoin pour ses travaux.

ART. 10. Les Parties ont le droit de nommer des agents spéciaux auprès de la Commission qui devront en même temps servir d'intermédiaires entre Elles et la Commission.

ART. 11. Les débats devant la Commission ne sont publics que si la Commission, d'accord avec les Parties, en décide ainsi.

ART. 12. La procédure devant la Commission est contradictoire.

La Commission réglera elle-même la procédure, en tenant compte, à défaut d'une décision contraire prise à l'unanimité, des dispositions contenues au titre III de la Convention de la Haye pour le règlement pacifique des conflits internationaux, du 18 octobre 1907.

ART. 13. Sous réserve des dispositions contraires de la présente Convention, les décisions de la Commission sont prises à la majorité simple. Chaque membre dispose d'une voix, celle du Président étant décisive en cas de partage. La Commission peut délibérer valablement si tous les membres ont été dûment convoqués et si le Président et au moins deux autres membres sont présents.

ART. 14. La Commission fera un rapport sur chaque différend qui lui a été soumis. Le rapport comportera un projet de règlement du différend, si les circonstances y

shall in every respect assist it in the accomplishment of its task.

The Commission may apply to the Secretary-General of the League of Nations for the assistance of the Secretariat if it appears that such assistance is necessary to facilitate its task.

ART. 10. The Parties shall be entitled to appoint special representatives on the Commission. These representatives shall also act as intermediaries between the Parties and the Commission.

ART. 11. Proceedings before the Commission shall not be public unless the Commission so decides and the Parties agree.

ART. 12. In proceedings before the Commission both Parties shall be heard.

The Commission shall draw up rules to govern its procedure, subject to the proviso that the regulations laid down in Chapter III of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes shall be applied, unless the Commission unanimously agrees to depart from these regulations.

ART. 13. The Commission shall take its decisions by a majority vote of its members except where otherwise laid down in the present Convention.

Each member shall have one vote, and in case of a tie the President shall have a casting vote.

A quorum shall be constituted if all the members have been duly summoned and if the President and not less than two other members are present.

ART. 14. The Commission shall make a report on each dispute submitted to it. The report shall include a proposal for the settlement of the dispute, if a settlement is

donnent lieu et si trois au moins des membres de la Commission se mettent d'accord sur un tel projet.

L'avis motivé des membres restés en minorité sera consigné dans le rapport.

ART. 15. Sous réserve du droit des Parties de prolonger ce délai, la Commission doit achever ses travaux dans un délai de six mois, à dater du jour où le différend a été porté devant la Commission.

Le temps durant lequel les travaux de la Commission sont suspendus selon les dispositions de l'article 2 n'est pas compris dans le délai susmentionné.

ART. 16. Le rapport de la Commission est signé par le Président et porté sans délai à la connaissance des Parties et du Secrétaire général de la Société des Nations.

Les Parties s'engagent à porter à leur connaissance réciproque dans un délai raisonnable si Elles acceptent les constatations du rapport et les propositions qu'il renferme.

Il appartient aux Parties de décider, d'un commun accord, si le rapport de la Commission doit être publié immédiatement. Toutefois, même à défaut de cet accord, la Commission pourra, en cas de raisons spéciales, procéder à la publication immédiate du rapport.

ART. 17. Chacune des Parties indemnisera les membres de la Commission nommés par Elle et fournira la moitié de l'indemnité du Président.

Les Parties doivent chercher à s'entendre pour que, des deux côtés, les indemnités des membres de la Commission soient fixées d'après les mêmes chiffres.

Chaque Partie supportera les frais de procédure encourus par

possible, and if at least three members agree to the proposals. The reasoned opinion of the members who are in the minority shall be recorded in the report.

ART. 15. The Commission shall complete its task within six months from the day when the dispute is submitted to it, unless the Parties agree to an extension of this period.

The above period shall not include any time during which the Commission's work is interrupted for reasons arising out of the provisions of Article 2.

ART. 16. The Commission's report shall be signed by the President, who shall immediately bring it to the knowledge of the Parties and of the Secretary-General of the League.

The Parties undertake to inform each other, within reasonable time, as to how far they approve the findings of the report and accept the settlement proposed therein.

The Parties shall decide, in agreement with one another, whether the Commission's report shall be published immediately after it has been issued; in special circumstances, however, the Commission may decide that the report shall be published at once, even in the absence of any such agreement.

ART. 17. Each Party shall pay the allowances of the members of the Commission which it has appointed and shall also pay half the allowances of the Chairman.

The Parties shall endeavour to arrange that the allowances of the members of the Commission on both sides shall be fixed at the same figure.

Each Party shall bear the costs of procedure which it has incurred

Elle et la moitié de ceux déclarés communs par la Commission.

ART. 18. La présente convention est rédigée en langues suédoise, finnoise et française. Dans toutes les questions relatives à son interprétation, c'est le texte français qui fera foi.

La présente convention sera ratifiée et les ratifications seront échangées à Helsingfors aussitôt que faire se pourra. Elle entrera en vigueur immédiatement après l'échange des ratifications et aura une durée de cinq années à dater de l'échange des ratifications. Si elle n'a pas été dénoncée six mois au moins avant l'expiration de ce délai, elle restera en vigueur pendant une nouvelle période de cinq ans et sera ainsi de suite censée renouvelée chaque fois pour cinq ans, sauf dénonciation six mois au moins avant l'expiration de la précédente période de cinq ans.

En foi de quoi les plénipotentiaires respectifs ont signé la présente convention et y ont apposé leurs cachets.

Fait à Stockholm, en deux exemplaires, le 27 juin 1924.

E. Marks von Würtemberg  
Werner Söderhjelm

and half of those which the Commission may declare to be joint costs.

ART. 18. The present Convention is drafted in Swedish, Finnish and French. In any questions concerning its interpretation the French text shall be authoritative.

The present Convention shall be ratified and the ratifications exchanged at Helsingfors as soon as possible. It shall come into force as soon as the instruments of ratification have been exchanged and shall remain in force for five years from that date. Unless denounced within six months before the expiration of this period, it shall remain in force for a further period of five years and shall thereafter be regarded as renewed for successive periods of five years, unless denounced within six months before the expiration of the preceding period of five years.

In faith whereof, the Plenipotentiaries have signed the present Convention and thereto affixed their seals.

Done in duplicate, at Stockholm, June 27, 1924.

Marks von Würtemberg  
Söderhjelm

#### PERMANENT COMMISSION OF CONCILIATION

(Appointed March 13, 1925)

##### *President appointed by both Parties*

JONKHEER W. J. M. VAN EYSINGA, Professor at the University of Leyden. (Dutch.)

##### *Members appointed by Finland*

RAFAEL ERICH, Professor, former Prime Minister of Finland. (Finnish.)

CHARLES DE VISSCHER, Professor at the University of Ghent. (Belgian.)

##### *Members appointed by Sweden*

BARON MARKS VON WÜRTEMBERG, President of the Court of Appeal at Stockholm, former Minister for Foreign Affairs of Sweden. (Swedish.)

HENRY SCHREIBER, former Swiss Minister to Sweden and Chairman of the Hungarian-Czechoslovakian Mixed Arbitral Tribunal. (Swiss.)

## No. 27

## NORWAY-SWEDEN: TREATY OF CONCILIATION

Signed at Stockholm June 27, 1924; ratifications exchanged August 30, 1924.<sup>1</sup>

Original text from Sweden, *Överenskommelser med främmande makter*, 1924, No. 21;<sup>2</sup>  
English translation from League of Nations, *Treaty Series*, XXVIII, 317-325.

(Translation)

Hans Majestet Kongen av Sverige og Hans Majestet Norges Konge, som er besjelet av ønsket om å fremme utviklingen av forliksbehandling i internasjonale tvistigheter i en ånd som stemmer med Folkenes Forbunds Pakt, og som herved for sitt vedkommende har villet gjennomføre prinsippene i Forbundets Forsamlings resolusjon av 22 september 1922 om avslutning av konvensjoner om forliksnevnder, er blitt enig om i dette øiemed å avslutte en konvensjon og har til sine befullmektigede opnevnt:

Hans Majestet . Kongen av Sverige:

Hans Majestets utenriksminister  
Hans Excellence Friherre Erik Teodor Marks von Würtemberg;

Hans Majestet Norges Konge:

Hans Majestets overordentlige sendemann og befullmektigede minister i Stockholm Johan Herman Wollebæk.

hvilke, behørig befullmektigede, er kommet overens om følgende artikler:

ARTIKKEL 1. De kontraherende parter forplikter sig til å henvise til en fast nevnd, som oprettes på

His Majesty the King of Sweden and His Majesty the King of Norway, being desirous of promoting the development of the procedure of conciliation in international disputes in accordance with the spirit of the Covenant of the League of Nations, and being desirous of carrying into effect the principles laid down for this purpose in the resolution regarding the conclusion of conciliation Conventions which was adopted by the Assembly of the League of Nations on September 22, 1922, have for this purpose agreed to conclude a Convention, and have appointed as their Plenipotentiaries the following:

His Majesty the King of Sweden:

His Excellency Baron Erik Teodor Marks von Würtemberg, Minister for Foreign Affairs;

His Majesty the King of Norway:

M. Johan Herman Wollebæk, Envoy Extraordinary and Minister Plenipotentiary at Stockholm;

Who, having been duly provided with full powers for that purpose, have agreed upon the following articles:

ARTICLE 1. The Contracting Parties undertake to refer to a Permanent Commission, to be ap-

<sup>1</sup> Amended by Protocol of Signature of Treaty between Norway and Sweden, signed November 25, 1925; see *infra*, No. 51.

<sup>2</sup> See also League of Nations, *Treaty Series*, XXVIII, 310. The Swedish text is also authentic.



nedenfor angitte måte, til undersøkelse og forliksbehandling alle tvister, av hvilken art de enn måtte være, som ikke innen rimelig tid har kunnet løses ad diplomatisk vei og ikke ifølge vedtektene for den faste domstol for internasjonal rettspleie eller annen overenskomst mellom dem skal underkastes enten nevnte domstols eller en voldgiftsretts avgjørelse.

ART. 2. Når en tvist som av den ene part er henvist til nevnden av den annen part innbringes for domstolen eller for en voldgiftsrett i henhold til bestemmelser som nevnes i art. 1, skal nevnden utsette behandlingen av tvisten inntil domstolen eller voldgiftsretten har truffet beslutning om kompetansespørsmålet.

ART. 3. Nevnden skal bestå av fem medlemmer. Hver av partene velges to av disse, av hvilke den ene kan velges blandt statens egne borgere. Det femte medlem, som skal være nevndens formann, skal være av annen nasjonalitet enn nevndens øvrige medlemmer. Formannen velges av partene i forening. Skulde disse ikke kunne bli enige om valget, skal han efter anmodning fra en av partene velges av presidenten for den faste domstol for internasjonal rettspleie eller, hvis denne er borger av noen av de kontraherende stater, av domstolens visepresident.

Nevnden skal være opprettet innen seks måneder efter utvekslingen av ratifikasjonene av nærværende konvensjon.

pointed in the manner set forth below, for investigation and settlement by conciliation, all disputes of any nature whatever which it has not been possible to settle within reasonable time through diplomatic channels, and which should not, under the terms of the Statute of the Permanent Court of International Justice or of any other agreement between the Parties, be submitted either to the Permanent Court or to a court of arbitration.

ART. 2. When a dispute, which has been referred to the Commission by one of the Parties, has been brought before the Permanent Court or a court of arbitration by the other Party under the terms of Article 1, the Commission shall postpone its investigation of the dispute until the Permanent Court or the court of arbitration shall have determined the question of competence in the case.

ART. 3. The Commission shall be composed of five members. Each Party shall appoint two members, one of which may be a national of the appointing State. The fifth member, who shall act as chairman of the Commission, shall be a national of a State not otherwise represented on the Commission. He shall be appointed jointly by the Parties. Should the Parties be unable to agree, the chairman shall, at the request of one of the Parties, be appointed by the President of the Permanent Court of International Justice, or, should the latter be a national of one of the Contracting States, by the Vice-President of the Court.

The Commission shall be appointed within six months after the ratifications of the present Convention have been exchanged.

ART. 4. Nevndens medlemmer velges for en tid av tre år. Deres mandat kan ikke tilbakekalles for utløpet av det tidsrum for hvilket de er valgt, medmindre partene er enige derom. Hvis et medlem dør eller fratrer sin stilling, skal for resten av valgperioden en annen velges i hans sted, såvidt mulig innen for måneder derefter, og i ethvert fall såsnart tvist henvises til nevnden.

ART. 5. Innen utløpet av fjorten dager efterat en part har henvist en tvist til nevnden, har partene adgang til for behandlingen av tvisten å erstatte det ene av de medlemmer som fra deres side er utsett med en person som er i besiddelse av særlig sakkunnskap i det foreliggende spørsmål, dog må den regel iakttas som i art. 3 er fastsatt om medlemmenes nasjonalitet.

Den part som vil benytte denne adgang skal derom straks underrette motparten, og denne har i så fall adgang til å ta tilsvarende skritt innen fjorten dager efterat han har mottatt denne underretning.

ART. 6. Hvis ved utløpet av det tidsrum for hvilket et medlem er valgt, et annet medlem ikke er blitt utsett i hans sted, skal hans mandat anses fornyet for tre år; formannens mandat skal dog opphøre ved valgperiodens utløp hvis dette forinnen forlanges av noen av partene.

Et medlem hvis mandat opphører mens en tvist er til behandling av nevnden, skal, selv om efterfølger er blitt valgt, fortsette med behandlingen av tvisten inntil denne er avsluttet.

ART. 7. En tvist henvises til nevnden ved meddelelse rettet til

ART. 4. The members of the Commission shall be appointed for three years. They shall be irremovable during their period of office unless the Parties agree otherwise. In the event of the death or retirement of a member, the vacancy must be filled for the remainder of his term of office within the next two months if possible, but, in any case, as soon as a dispute has been submitted to the Commission.

ART. 5. Either of the Parties may, within fourteen days after one of them has submitted a dispute to the Commission, replace one of the members whom it has appointed by a person specially qualified to deal with the particular case before the Commission, subject, however, to the rules laid down in Article 3 with regard to the nationality of members.

If one Party desires to avail himself of this right, it shall at once inform the other Party, which may take a similar step within fourteen days of receiving such notification.

ART. 6. If, at the end of his term of office, a member of the Commission has not been replaced, his term shall be considered as renewed for a period of three years. The chairman, however, shall, at the request of one of the Parties, cease to hold office at the end of his appointed term.

If a member's term of office expires in the course of proceedings in connection with a dispute, he shall continue to take part in such proceedings until the dispute has been settled, even if his successor has been appointed.

ART. 7. When one of the Parties desires to submit a dispute to the

nevndens formann fra en av partene. Om sådan meddelelse skal der straks gis den annen part underretning. Formannen skal snarest mulig sammenkalle nevnden.

Den part som har henvist tvisten til nevnden, skal underrette generalsekretæren for Folkenes Forbund herom.

ART. 8. Nevnden sammentrer på det sted hvor Folkenes Forbund har sitt sete, medmindre partene i særlig tilfelle har truffet annen avtale.

ART. 9. Partene forplikter sig til å gi nevnden alle nødvendige opplysninger og iøvrig på enhver måte lette nevnden utførelsen av dens hverv.

Nevnden kan anmode generalsekretæren for Folkenes Forbund om sekretariatets bistand når denne måtte være nødvendig for nevndens virksomhet.

ART. 10. Partene har rett til å opnevne særlige representanter ved nevnden; de skal likeledes være medlemledd mellom dem og nevnden.

ART. 11. Forhandlingene ved nevnden er ikke offentlige medmindre beslutning derom treffes av nevnden med partenes samtykke.

ART. 12. Forhandlingene for nevnden er kontradiktoriske.

Nevnden fastsetter iøvrig reglene for forhandlingene, dog således at bestemmelsene i titel III i Haagkonvensjonen av 18 oktober 1907 angående fredlig bileggelse av internasjonale stridigheter skal anvendes, medmindre nevnden enstemmig beslutter avvikelse fra disse regler.

Commission, it shall notify the president. The other Party shall also be informed at once of such notification. The president shall convene the Commission as soon as possible.

The Party which has submitted the dispute to the Commission shall notify the Secretary-General of the League of Nations.

ART. 8. The Commission shall meet at the seat of the League of Nations unless, in special cases, the Parties decide otherwise.

ART. 9. The Parties shall supply the Commission with all the information which may be useful, and shall in every respect assist it in the accomplishment of its task.

The Commission may apply to the Secretary-General of the League of Nations for the assistance of the Secretariat if it appears that such assistance is necessary to facilitate its task.

ART. 10. The Parties shall be entitled to appoint special representatives on the Commission. These representatives shall also act as intermediaries between the Parties and the Commission.

ART. 11. Proceedings before the Commission shall not be public unless the Commission so decides and the Parties agree.

ART. 12. In proceedings before the Commission both Parties shall be heard.

The Commission shall draw up rules to govern its procedure, subject to the proviso that the regulations laid down in Chapter III of The Hague Convention of October 18, 1907, for the pacific settlement of international disputes shall be applied unless the Commission unanimously agrees to depart from these regulations.

ART. 13. Nevndens beslutninger treffes med simpelt flertall når ikke noe annet er bestemt i nærværende konvensjon. Hvert medlem har en stemme, og formannens stemme gjør ved like stemmetal utslaget.

Nevnden er beslutningsdyktig hvis samtlige medlemmer er behørig innkalt og formannen samt minst to andre medlemmer er tilstede.

ART. 14. Nevnden skal avgi betenkning i hver tvist som er henvist til den. Betenkningen skal inneholde et forslag till forlik hvis sakens beskaffenhet dertil gir anledning og minst tre av nevndens medlemmer er enig i sådant forslag.

Avvikende mening innen nevnden skal sammen med begrunnelse for denne angis i betenkningen.

ART. 15. Nevnden bör avslutte sitt arbeide innen seks måneder å regne fra det tidspunkt tvisten er henvist til den, hvis partene ikke måtte bli enig om forlengelse av denne frist.

I ovennente frist medregnes ikke den tid hvori nevndens virksomhet måtte ha været avbrutt på grunn av bestemmelsen i artikkel 2.

ART. 16. Nevndens betenkning undertegnes av formannen og skal straks meddeles partene og generalsekretæren for Folkenes Forbund.

Partene forplikter sig til innen rimelig tid å underrette hverandre om hvorvidt de godkjenner betenkningens innhold og antar det forslag till forlik som deri er fremsatt.

Det beror på overenskomst mellom partene om nevndens betenkning skal offentliggjøres straks efter at den er avgitt; dog kan nevnden, når særlige grunner foreligger, beslutte at betenkningen

ART. 13. The Commission shall take its decisions by a majority vote of its members except where otherwise laid down in the present Convention. Each member shall have one vote, and in case of a tie the president shall have a casting vote.

A quorum shall be constituted if all the members have been duly summoned, and if the president and not less than two other members are present.

ART. 14. The Commission shall make a report on each dispute submitted to it. The report shall include a proposal for the settlement of the dispute if a settlement is possible and if at least three members agree to the proposals.

The reasoned opinion of the members who are in the minority shall be recorded in the report.

ART. 15. The Commission shall complete its task within six months from the day when the dispute is submitted to it, unless the Parties agree to an extension of this period.

The above period shall not include any time during which the Commission's work is interrupted for reasons arising out of the provisions of Article 2.

ART. 16. The Commission's report shall be signed by the president, who shall immediately bring it to the knowledge of the Parties and of the Secretary-General of the League.

The Parties undertake to inform each other within reasonable time as to how far they approve the findings of the report and accept the settlement proposed therein.

The Parties shall decide, in agreement with one another, whether the Commission's report shall be published immediately after it has

også uten sådan overenskomst straks skal offentliggøres.

ART. 17. Godtgjørelse til nevndens medlemmer for deres arbeide med en til nevnden henvist tvist utredes således, at hver part utbetaler godtgjørelse til de medlemmer som den selv har valgt og yder halvdelen av godtgjørelsen til formannen.

Partene bör søke å treffe avtale om at godtgjørelsen til de fra hver side valgte medlemmer utredes efter samme satser.

Hver part bærer selv sine egne saksomkostninger og halvdelen av dem som nevnden erklærer for felles.

ART. 18. Denne konvensjon skal ratifiseres og ratifikasjonene skal utveksles i Kristiania så snart skje kan. Den trer i kraft straks ratifikasjonene er utvekslet og gjelder fem år å regne fra dette tidspunkt. Hvis den ikke er blitt opsagt innen seks måneder för utløpet av nevnte tidsrum, gjelder den ytterligere fem år, og skal fremdeles anses forlenget for femårsperioder hvis den ikke innen seks måneder för utløpet av nærmest foregående femårsperiode er blitt opsagt.

Til bekreftelse herav har de respektive befullmektigede undertegnet denne konvensjon og forsynet den med sine segl.

Utfærdiget i Stockholm i to eksemplarer, den 27 juni 1924.

E. Marks von Würtemberg  
J. H. Wollebæk

been issued; in special circumstances, however, the Commission may decide that the report shall be published at once, even in the absence of any such agreement.

ART. 17. Each Party shall pay the allowances of the members of the Commission which it has appointed, and shall also pay half of the allowances of the chairman.

The Parties shall endeavour to arrange that the allowances of the members of the Commission on both sides shall be fixed at the same figure.

Each Party shall bear the costs of procedure which it has incurred, and half of those which the Commission may declare to be joint costs.

ART. 18. The present Convention shall be ratified and the ratifications shall be exchanged at Christiania as soon as possible. It shall come into force as soon as the instruments of ratification have been exchanged, and shall remain in force for five years from that date. Unless denounced within six months before the expiration of this period, it shall remain in force for a further period of five years and shall thereafter be regarded as renewed for successive periods of five years unless denounced within six months before the expiration of the preceding period of five years.

In faith whereof the Plenipotentiaries have signed the present Convention and thereto affixed their seals.

Done in duplicate, at Stockholm, on June 27, 1924.

E. Marks von Würtemberg  
J. H. Wollebæk

## PERMANENT COMMISSION OF CONCILIATION

(Appointed February 27, 1925)

*President appointed by both Parties*

JONKHEER W. J. M. VAN EYSINGA, Professor at the University of Leyden.  
(Dutch.)

*Members appointed by Norway*

F. V. N. BEICHMANN, President of the Court of Appeal at Trondhjem,  
Deputy Judge of the Permanent Court of International Justice.  
(Norwegian.)

OVE RODE, Member of the Danish Parliament, former Minister of the  
Interior of Denmark. (Danish.)

*Members appointed by Sweden*

BARON MARKS VON WÜRTEMBERG, President of the Court of Appeal at  
Stockholm, former Minister for Foreign Affairs of Sweden. (Swedish.)  
ROBERT GUËX, Chairman of the Germano-Belgian Mixed Arbitral Tri-  
bunal. (Swiss.)

## No. 28

GERMANY-SWEDEN: TREATY OF CONCILIATION  
AND ARBITRATION

Signed at Berlin August 29, 1924; ratifications exchanged November 21,  
1925.<sup>1</sup>

Original text from Sweden, *Överenskommelser med frammande makter*, 1925, No. 28;<sup>2</sup>  
English translation from League of Nations, *Treaty Series*, XLII, 125-137.

*(Translation)*

Das Deutsche Reich und das  
Königreich Schweden, von dem  
Wunsche erfüllt, die Entwickelung  
des Verfahrens zur friedlichen  
Beilegung zwischen staatlicher  
Streitigkeiten zu fördern, sind übereingekommen, einen allgemeinen  
Schiedsgerichts- und Vergleichsvertrag abzuschliessen.

The German Reich and the Kingdom of Sweden, being desirous of promoting the development of the procedure for the pacific settlement of international disputes, have agreed to conclude a general arbitration and conciliation Convention, and have for this purpose appointed as their Plenipotentiaries:

<sup>1</sup> On April 25, 1929, a protocol was signed between Germany and Sweden abrogating Article 4 of this Treaty and stating that Article 8 shall read as follows: "If the agreement of reference has not been established within a period of two months after one party concerned has notified the other of its desire to refer the dispute to arbitration, or if the Tribunal is not constituted within the same period, either party may submit the dispute direct to the Permanent Court of International Justice at The Hague."

<sup>2</sup> See also League of Nations, *Treaty Series*, XLII, 112. The Swedish text is also authentic.

Zu diesem Zwecke haben zu Bevollmächtigten ernannt der deutsche Reichspräsident: den Ministerialdirektor im Auswärtigen Amte, Herrn Dr. Friedrich Gaus,

Seine Majestät der König von Schweden: den Schwedischen Gesandten in Berlin, Freiherrn Fredrik Ramel,

die, nachdem sie ihre Vollmachten geprüft und in guter und gehöriger Form befunden haben, über folgende Bestimmungen übereingekommen sind:

ARTIKEL 1. Die vertragschliessenden Teile verpflichten sich, alle Streitigkeiten irgendwelcher Art, die zwischen ihnen entstehen und nicht in angemessener Frist auf diplomatischen Wege geschlichtet werden können, nach Massgabe des gegenwärtigen Vertrags entweder einem Schiedsgerichtsverfahren oder einem Vergleichsverfahren zu unterwerfen.

Streitigkeiten, für deren Schlichtung die vertragschliessenden Teile durch andere zwischen ihnen bestehende Abmachungen an ein besonderes Verfahren gebunden sind, werden nach Massgabe der Bestimmungen dieser Abmachungen behandelt.

ART. 2. Dem Schiedsgerichtsverfahren werden auf Verlangen einer Partei, unter Vorbehalt der Bestimmungen der Artikel 3 und 4, diejenigen Streitigkeiten unterworfen, die betreffen:

erstens: Bestand, Auslegung und Anwendung eines zwischen den beiden Parteien geschlossenen Staatsvertrags;

zweitens: irgendeine Frage des internationalen Rechts;

drittens: das Bestehen einer Tatsache, die, wenn sie erwiesen wird, die Verletzung einer zwischenstaatlichen Verpflichtung bedeutet;

The President of the German Reich:

Dr. Friedrich Gaus, Head of Department at the Ministry for Foreign Affairs;

His Majesty the King of Sweden: Baron Fredrik Ramel, Swedish Minister at Berlin,

Who, after having communicated to each other their full powers, found in good and due form, have agreed as follows:

ARTICLE 1. The Contracting Parties undertake to submit all disputes of any nature whatever which may arise between them, and which it has not been possible to settle within a reasonable period by diplomatic means, to be dealt with by arbitration or conciliation, as provided in the present Convention.

Disputes for the solution of which a special procedure has been laid down in other conventions in force between the Contracting Parties shall be settled in accordance with the provisions of such conventions.

ART. 2. At the request of one of the Parties, disputes regarding the following subjects shall, unless otherwise provided for in Articles 3 and 4, be submitted to arbitration:

Firstly, the contents, interpretation and application of any treaty concluded between the two Parties;

Secondly, any point of international law;

Thirdly, the existence of any fact which, if established, would constitute a violation of an international engagement;

viertens: Umfang und Art der Wiedergutmachung im Falle einer solchen Verletzung.

Bestehen zwischen den Parteien Meinungsverschiedenheiten darüber, ob eine Streitigkeit zu den vorstehend bezeichneten Arten gehört, so wird über diese Vorfrage im Schiedsgerichtsverfahren entschieden.

ART. 3. Bei Fragen, die gemäss den Landesgesetzen der Partei, gegen die ein Begehren geltend gemacht wird, von richterlichen Behörden mit Einschluss der Verwaltungsgerichte, zu entscheiden sind, kann diese Partei verlangen, dass die Streitigkeiten dem Schiedsgerichtsverfahren erst unterworfen werden, nach dem in dem Gerichtsverfahren eine endgültige Entscheidung gefällt worden ist, und dass die Anrufung des Schiedsgerichts spätestens sechs Monate nach dieser Entscheidung erfolge. Dies gilt nicht, wenn es sich um einen Fall von Rechtsverweigerung handelt und die gesetzlich vorgesehenen Beschwerdestellen angerufen worden sind.

Entsteht zwischen den Parteien eine Meinungsverschiedenheit über die Anwendung der vorstehenden Bestimmung, so wird darüber im Schiedsgerichtsverfahren entschieden.

ART. 4.<sup>1</sup> Erhebt eine Partei bei einer Streitigkeit der im Artikel 2 bezeichneten Arten die Einrede, dass es sich um eine Angelegenheit handle, die ihre Unabhängigkeit, die Unversehrtheit ihres Gebiets oder andere höchste Lebensinteressen betreffe, so kommt für die Streitigkeit, falls die andere Partei diese Behauptung als zutreffend anerkennt, nicht das Schiedsgerichts-, sondern das Vergleichsverfahren zu Anwendung. Wird da-

Fourthly, the extent and nature of the reparation due for such violation.

In case of disagreement as to whether the dispute falls under one of the above categories, this preliminary question shall be referred to arbitration.

ART. 3. In regard to questions which, under the national laws of the Party against which a demand has been formulated, are within the competence of judicial authorities, including administrative tribunals, the defendant Party may require, on the one hand, that the dispute shall not be submitted to arbitral award until a final decision has been pronounced by these judicial authorities and, on the other hand, that the matter shall be brought before the Tribunal not later than six months after the date of such decision. The above provisions shall not apply if justice has been refused and if the matter has been brought before the courts of appeal provided for by law.

In the case of disputes regarding the application of the preceding provision, the Arbitral Tribunal shall decide.

ART. 4. If, in a dispute coming under one of the categories mentioned in Article 2, one of the Parties pleads that the question at issue is one which affects its independence, the integrity of its territory or other vital interests of the highest importance, and if the opposing Party admits that the plea is well founded, the dispute shall not be subject to arbitration, but to the procedure of conciliation. If, however, the plea is not

<sup>1</sup> Cf. p. 147, note 1.



gegen die Behauptung von der anderen Partei nicht als zutreffend anerkannt, so ist darüber im Schiedsgerichtsverfahren zu entscheiden.

Anerkennt das Schiedsgericht die bezeichnete Einrede als begründet, so überweist es die Streitigkeit dem Vergleichsverfahren; sonst entscheidet es selbst darüber.

Eine Partei, welche die bezeichnete Einrede der Gegenpartei nicht als zutreffend anerkennt, kann sich gleich wohl ohne vorherige Herbeiführung einer schiedsgerichtlichen Entscheidung über die Einrede mit der Durchführung des Vergleichsverfahrens einverstanden erklären. Sie kann dabei jedoch den Vorbehalt machen, dass, wenn der Vergleichsvorschlag nicht von beiden Parteien angenommen wird, das Schiedsgericht zur Entscheidung über die Einrede und gegebenenfalls auch über die Streitigkeit selbst angerufen werden kann.

ART. 5. Das Schiedsgericht legt seinen Entscheidungen zugrunde:

erstens: die zwischen den Parteien geltenden Übereinkünfte allgemeiner oder besonderer Art und die sich daraus ergebenden Grundsätze;

zweitens: das internationale Gewohnheitsrecht als Ausdruck einer allgemeinen, als Recht anerkannten Übung;

drittens: die allgemeinen von den Kulturstaaen anerkannten Rechtsgrundsätze.

Soweit im einzelnen Falle die vorstehend erwähnten Rechtsgrundlagen Lücken aufweisen, entscheidet das Schiedsgericht nach den Rechtsgrundsätzen, die nach seiner Ansicht die Regel des internationalen Rechtes sein sollten. Es folgt dabei bewährter Lehre und Rechtsprechung.

Mit Zustimmung beider Par-

recognised as well founded by the opposing Party, this point shall be settled by means of arbitration.

If the Tribunal recognises the validity of such pleas it shall refer the dispute for settlement to the procedure of conciliation. If the contrary is the case, it shall give an award on the dispute itself.

A Party which does not recognise the validity of one of the pleas of exception put forward by the opposing Party may, nevertheless, without first having recourse to arbitration, agree to the application of the procedure of conciliation. It may, however, stipulate that if the proposal for settlement by conciliation is not accepted by both Parties, the Tribunal shall be required to give a decision regarding the plea of exception, and, if necessary, regarding the dispute itself.

ART. 5. The Tribunal shall apply:

Firstly, the conventions in force between the Parties, whether general or special, and the principles of law arising therefrom;

Secondly, international custom as evidence of a general practice accepted as law;

Thirdly, the general principles of law recognised by civilised nations.

If, in a particular case, the legal bases mentioned above are inadequate, the Tribunal shall give an award in accordance with the principles of law which, in its opinion, should govern international law. For this purpose it shall be guided by decisions sanctioned by legal authorities and by jurisprudence.

If the Parties agree, the Tribunal may, instead of basing its decision on legal principles, give an award

teien kann das Schiedsgericht seine Entscheidung, anstatt sie auf Rechtsgrundsätze zu stützen, nach billigem Ermessen treffen.

ART. 6. Sofern nicht die Parteien im einzelnen Falle eine entgegenstehende Vereinbarung treffen, wird das Schiedsgericht in folgender Weise bestellt.

Die Richter werden auf der Grundlage des Verzeichnisses der Mitglieder des durch das Haager Abkommen zur friedlichen Erledigung internationaler Streitfälle vom 18. Oktober 1907 geschaffenen Ständigen Schiedshofs im Haag gewählt.

Jede Partei ernennt einen Schiedsrichter nach freier Wahl. Gemeinsam berufen die Parteien drei weitere Richter und aus deren Mitte den Obmann. Sofern einer der gemeinsam berufenen Richter nach seiner Wahl die Staatsangehörigkeit einer der beiden Parteien erwirbt, auf deren Gebiete seinen Wohnsitz nimmt oder in deren Dienste tritt, kann jede Partei verlangen, dass er ersetzt werde. Streitigkeiten darüber, ob diese Voraussetzungen zutreffen, werden von den übrigen vier Richtern entschieden, wobei der ältere der gemeinsam berufenen Richter der Vorsitz führt und bei Stimmengleichheit eine doppelte Stimme hat.

Die Wahl der Richter erfolgt von neuem für jeden einzelnen Streitfall. Die vertragschliessenden Teile behalten sich jedoch vor, im gemeinsamen Einverständnis die Wahlen in der Weise vorzunehmen, dass für gewisse Arten von Streitfällen während eines bestimmten Zeitraums dieselben Richter dem Schiedsgericht angehören.

Mitglieder des Schiedsgerichts, die aus irgendeinem Grunde ausscheiden, werden in der gleichen Weise ersetzt, wie sie berufen worden sind.

in accordance with considerations of equity.

ART. 6. Subject to special agreement to the contrary in each particular case, the Tribunal shall be constituted as follows:

The judges shall be chosen from the list of members of the Permanent Court of Arbitration established by the Hague Convention, dated October 18, 1907, for the pacific settlement of international disputes.

Each Party shall appoint its own arbitrator. The Parties shall jointly nominate three other arbitrators, one of whom shall be the umpire. If, after having been appointed, one of the judges jointly elected acquires the nationality of one of the Parties, appoints his domicile in its territory or enters its service, either of the Parties may claim that he be replaced. Any disputes which may arise as to whether any one of these conditions exists shall be settled by the other four judges; the eldest of the judges jointly elected shall take the chair in these cases, and if the votes are equally divided, he shall give a casting vote.

For each individual dispute there shall be a fresh election of judges. The Contracting Parties, however, reserve the right to act in concert regarding these elections, so that, for a certain class of dispute arising within a fixed period, the same judges shall be seated on the Tribunal.

In case of the death of members of the Tribunal, or of their retirement for any reason whatever, they shall be replaced according to the manner determined for their appointment.

ART. 7. Die vertragschliessenden Teile werden in Ausführung des gegenwärtigen Vertrags in jedem Einzelfall eine besondere Schiedsordnung festsetzen. Darin werden der Streitgegenstand, die etwaigen besonderen Befugnisse des Gerichts, dessen Zusammensetzung und Sitz, die Höhe des von jeder Partei als Kostenvorschuss zu hinterlegenden Betrags, die hinsichtlich der Form und der Fristen des Verfahrens zu beobachtenden Regeln sowie die sonst notwendigen Einzelheiten bestimmt.

Meinungsverschiedenheiten über die Bestimmungen der Schiedsordnung werden, vorbehaltlich des Artikel 8, vom Schiedsgericht entschieden.

ART. 8.<sup>1</sup> Kommt zwischen den Parteien nicht binnen sechs Monaten, nachdem die eine der anderen das Begehren nach schiedsgerichtlicher Austragung einer Streitigkeit mitgeteilt hat, die Schiedsordnung zustande, so kann jede Partei den im Artikel 14 vorgesehenen Ständigen Vergleichsrat zwecks Feststellung der Schiedsordnung anrufen. Dieser hat binnen zwei Monaten nach seiner Anrufung die Schiedsordnung festzusetzen, wobei der Streitgegenstand aus den Anträgen der Parteien ermittelt wird.

Es ist ebenso zu verfahren, wenn eine Partei den von ihr zu ernennenden Richter nicht bezeichnet hat, oder wenn die Parteien in der Bezeichnung der gemeinsam zu berufenden Richter oder des Obmanns nicht einig sind.

Der Ständige Vergleichsrat ist ferner befugt, bis zur Bestellung des Schiedsgerichts über jede andere Streitigkeit zu entscheiden,

ART. 7. In each individual case the Contracting Parties shall, in pursuance of the present Treaty, draw up an agreement of reference ("compromis"), to determine the subject of the dispute, any special terms of reference which may be accorded to the Tribunal, its composition, the place where it shall meet, the total amount that each Party concerned shall be obliged to deposit in advance to cover expenses, the rules to be observed with regard to the form and time-limits of the proceedings, and any other detail that may be considered necessary.

Any disputes arising out of the terms of the agreement of reference shall, subject to the terms of Article 8, be referred to arbitration.

ART. 8. If the agreement of reference has not been determined within a period of six months after one Party concerned has notified the other of its intention to refer the dispute to arbitration, either Party may request the Permanent Board of Conciliation provided for under Article 14 to establish the agreement of reference. The Permanent Board of Conciliation shall, within two months after having been convened, settle the terms of the agreement of reference, the subject of the dispute being determined on the basis of the statements submitted by the Parties.

The same procedure shall apply when one Party has not nominated the arbitrator for whose appointment it is responsible, or when the Parties concerned cannot agree upon the choice of judges to be jointly appointed, or upon the umpire.

Pending the constitution of the Tribunal, the Permanent Board of Conciliation shall also be competent to give an award upon any

<sup>1</sup> Cf. p. 147, note 1.

die sich auf die Schiedsordnung bezieht.

ART. 9. Das Schiedsgericht trifft seine Entscheidungen mit einfacher Stimmenmehrheit. Die abweichende Ansicht eines in der Minorität gebliebenen Mitglieds wird festgestellt.

ART. 10. Der Schiedsspruch wird Angaben über die Art seiner Ausführung, insbesondere über die dabei zu beobachtenden Fristen enthalten.

Wird in einem Schiedsspruch festgestellt, dass eine von einem Gericht oder einer anderen Behörde einer Partei getroffene Entscheidung oder Verfügung ganz oder teilweise mit dem Völkerrecht in Widerspruch steht, können aber nach dem Verfassungsrechte dieser Partei die Folgen der Entscheidung oder Verfügung durch Verwaltungsmaßnahmen nicht oder nicht vollständig beseitigt werden, so ist der verletzte Partei in dem Schiedsspruch auf andere Weise eine angemessene Genugtuung zuzuerkennen.

ART. 11. Unter Vorbehalt anderweitiger Abrede in der Schiedsordnung kann jede Partei bei dem Schiedsgerichte, das den Spruch erlassen hat, die Revision dieses Spruches beantragen. Der Antrag kann nur mit der Ermittlung einer Tatsache begründet werden, die einen entscheidenden Einfluss auf den Spruch auszuüben geeignet gewesen wäre und bei Schluss der Verhandlung dem Schiedsgerichte selbst und der Partei, welche die Revision beantragt hat, ohne ihr Verschulden unbekannt war.

Mitglieder des Schiedsgerichts, die aus irgendeinem Grunde für das Revisionsverfahren ausscheiden, werden in der gleichen Weise

other dispute arising out of the agreement of reference.

ART. 9. The award of the Tribunal shall be given by a majority vote. The opinion of any member of a minority of the Tribunal who dissents from the award shall be duly placed on record.

ART. 10. The arbitration award shall specify the manner in which it is to be carried out, especially as regards the time-limits to be observed.

If in an arbitration award it is proved that a decision or measure of a court of law or other authority of one of the Parties is wholly or in part contrary to international law, and if the constitutional law of that Party does not permit, or only partially permits, the consequences of the decision or measure in question to be annulled by administrative measures, the arbitration award shall give the injured Party equitable satisfaction of another kind.

ART. 11. Subject to any provision to the contrary in the agreement of reference, either Party may claim a revision of the award by the Tribunal which gave the award. This demand shall only be warranted by the discovery of a fact, which exercises a decisive influence on the award, and which, at the time of the close of the discussion in Court was unknown to the Tribunal itself and to the Party demanding the revision, unless that Party ought to have been aware of it.

If, for any reason, any members of the Tribunal do not take part in the revision proceedings, substitutes for them shall be appointed in

ersetzt, wie sie berufen worden sind.

Die Frist, innerhalb deren der im Absatz 1 vorgesehene Antrag gestellt werden kann, ist im Schiedsspruch zu bestimmen, sofern dies nicht in der Schiedsordnung geschehen ist.

ART. 12. Alle Streitigkeiten, die zwischen den Parteien über Auslegung und Ausführung des Schiedsspruchs entstehen sollten, unterliegen, vorbehaltlich anderweitiger Abrede, der Beurteilung des Schiedsgerichts, das den Spruch gefällt hat. Dabei findet die Bestimmung des Artikel 11 Absatz 2 entsprechende Anwendung.

ART. 13. Alle Streitigkeiten, die nicht nach den vorhergehenden Artikeln dieses Vertrages dem Schiedsgerichtsverfahren unterworfen werden, sind auf Verlangen einer Partei im Vergleichsverfahren zu behandeln.

Behauptet die andere Partei, dass der im Vergleichsverfahren anhängiggemachte Streitfall vom Schiedsgerichte zu entscheiden sei, so entscheidet dieses zunächst über diese Vorfrage.

Die Regierungen der vertragsschliessenden Teile können im gemeinsamen Einverständnis eine Streitigkeit, für die nach dem gegenseitigen Verträge das Schiedsgericht angerufen werden kann, endgültig oder unter Vorbehalt der späteren Anrufung des Schiedsgerichts im Vergleichsverfahren behandeln lassen.

ART. 14. Für das Vergleichsverfahren wird ein Ständiger Vergleichsrat gebildet.

Der Ständige Vergleichsrat besteht aus fünf Mitgliedern. Jeder vertragschliessende Teil ernennt zwei Mitglieder, von denen er eines unter seinen eigenen Staats-

the manner determined for their own appointment.

The limit of time within which the demand provided for in the first paragraph may be presented shall be fixed in the arbitral award, unless it has already been fixed in the agreement of reference.

ART. 12. Any dispute arising between the Parties concerned as to the interpretation and execution of the award shall, in the absence of an agreement to the contrary, be submitted to the Tribunal which pronounced it. In the latter case the provision contained in Article 11, paragraph 2, shall also apply.

ART. 13. Any dispute which, under the terms of the present Convention, cannot be referred to arbitration, shall, at the request of one of the Parties concerned, be submitted to the procedure of conciliation.

If the opposing Party claims that a dispute, for which conciliation procedure has been initiated, should be settled by the Tribunal, the latter shall first pronounce judgment upon this prior question.

The Governments of the Contracting Parties shall be entitled to agree that a dispute which, under the terms of the present Convention, can be settled by arbitration, shall be referred to the conciliation procedure, either without appeal or subject to appeal to the Tribunal.

ART. 14. A Permanent Board of Conciliation shall be constituted for the procedure of conciliation.

The Permanent Board of Conciliation shall consist of five members.

Each Contracting Party shall appoint two members, one of whom may be one of its own nationals.

angehörigen auswählen darf. Das fünfte Mitglied, das den Vorsitz führt, muss eine andere Staatsangehörigkeit als die anderen Mitglieder besitzen. Der Vorsitzende wird von den vertragschliessenden Teilen im gemeinsamen Einverständnis berufen. Falls es nicht zu einem solchen Einverständnis kommen sollte, kann jeder vertragschliessende Teil den Schweizerischen Bundespräsidenten um die Ernennung des Vorsitzenden ersuchen.

Der ständige Vergleichsrat wird im Laufe von sechs Monaten nach Austausch der Ratifikationsurkunden dieses Vertrags gebildet.

ART. 15. Die Mitglieder des Ständigen Vergleichsrats werden für die Dauer von drei Jahren ernannt. Mangels anderweitiger Abrede zwischen den vertragschliessenden Teilen kann ihre Ernennung während der Dauer ihres Auftrags nicht zurückgenommen werden. Im Falle des Rücktritts, des Todes oder einer sonstigen Behinderung eines Mitglieds muss es für die noch verbleibende Zeit seines Auftrags unter entsprechender Anwendung der Bestimmungen des Artikel 14 Absatz 2 so rasch als möglich ersetzt werden.

ART. 16. Jeder vertragschliessende Teil kann innerhalb von zwei Wochen, nachdem der Ständige Vergleichsrat in einer Streitigkeit angerufen worden ist, für diese Streitigkeit eines der von ihm ernannten Mitglieder durch ein anderes Mitglied ersetzen, das eine besondere Sachkenntnis in der Angelegenheit besitzt. Dabei findet jedoch die Bestimmung des Artikel 14 Absatz 2 Satz 2 entsprechende Anwendung.

The fifth member, who shall be the chairman, shall have a different nationality from that of the other members. He shall be appointed by the Contracting Parties jointly. Should the Contracting Parties fail to agree upon the choice of a chairman, either Party may invite the President of the Swiss Confederation to appoint the chairman.

The Permanent Board of Conciliation shall be constituted in the course of the six months following the exchange of the instruments of ratification of the present Convention.

ART. 15. The members of the Permanent Board of Conciliation shall be appointed for a period of three years. In the absence of an agreement to the contrary between the Contracting Parties, their appointment may not be revoked during their term of office. In the event of the retirement or death of any member, or should any member be prevented from any other cause from carrying out his duties, he shall be replaced for the remainder of his term of office in the manner provided for in the second<sup>1</sup> paragraph of Article 14.

ART. 16. Either Contracting Party may, within two weeks after a dispute has been referred to the Permanent Board of Conciliation, replace for the purposes of such dispute one of the members whom it has appointed by another member having an expert knowledge of the question at issue. In such cases, however, the provisions of the second sentence of the second paragraph<sup>2</sup> of Article 14 shall still apply.

<sup>1</sup> Third in the English translation.

<sup>2</sup> First sentence of the third paragraph in the English translation.

Die Partei, die von diesem Rechte Gebrauch machen will, hat die andere Partei unverzüglich zu benachrichtigen. In diesem Falle kann die andere Partei innerhalb von zwei Wochen nach Empfang der Mitteilung von dem gleichen Rechte Gebrauch machen.

ART. 17. Wenn bei Ablauf des Auftrags eines Mitgliedes des Ständigen Vergleichsrats seine Ersetzung nicht erfolgt ist, gilt sein Auftrag für einen Zeitraum von drei Jahren als erneuert. Indessen scheidet der Vorsitzende auf Antrag eines der vertragschliessenden Teile bei Ablauf seines Auftrags aus.

Ein Mitglied, dessen Auftrag während der Dauer eines im Gange befindlichen Verfahrens abläuft, nimmt an der Behandlung der Streitigkeit bis zur Beendigung des Verfahrens weiter teil, gleichviel ob sein Nachfolger bereits ernannt worden ist.

ART. 18. Der Ständige Vergleichsrat bestimmt seinen Sitz. Er kann ihn nach freiem Ermessen verlegen.

Der Ständige Vergleichsrat bildet nötigenfalls eine Kanzlei. Soweit er in die Kanzlei Angehörige der Parteien beruft, hat er dabei die Parteien gleichmässig zu berücksichtigen.

ART. 19. Dem Ständigen Vergleichsrat liegt ob, einen Bericht zu erstatten, der den Sachverhalt feststellt und, wenn die Umstände des Falles dazu Anlass geben, Vorschläge für die Beilegung der Streitigkeit enthält.

Der Bericht ist innerhalb von sechs Monaten nach dem Tage zu erstatten, an dem die Streitigkeit dem Ständigen Vergleichsrat unterbreitet wurde, es sei denn, dass

Should either of the Parties desire to make use of this right, it shall immediately inform the other Party, and the latter may make use of the same right within a period of two weeks after receipt of such notice.

ART. 17. Should the term of office of a member of the Board of Conciliation expire and should no successor be appointed, the aforesaid member's term of office shall be regarded as renewed for a period of three years. The Chairman shall, however, retire on the expiration of his term of office should one of the Contracting Parties so request.

Should the term of office of any member expire while proceedings are still pending, such member shall continue to take part in the examination of the dispute until the termination of the proceedings, whether his successor has been appointed or not.

ART. 18. The Permanent Board of Conciliation shall determine its own meeting-place and shall be at liberty to transfer it.

The Permanent Board of Conciliation shall, if need be, establish a Registry. If it appoints nationals of the Contracting Parties to positions in this office, it shall treat both Parties alike.

ART. 19. The Permanent Board of Conciliation shall draw up a report, which shall determine the facts of the case and, if the circumstances permit, shall contain proposals for the settlement of the dispute.

The report shall be submitted within six months from the date on which the dispute was laid before the Permanent Board of Conciliation unless the Parties shall agree

die Parteien diese Frist im gemeinsamen Einverständnis verkürzen oder verlängern. Der Bericht soll in drei Ausfertigungen verfasst werden, von denen je eine jeder Partei ausgehändigt, die dritte vom Ständigen Vergleichsrat aufbewahrt wird.

Der Bericht hat weder in bezug auf die Tatsachen noch in bezug auf die rechtlichen Ausführungen die Bedeutung einer endgültig bindenden Entscheidung. Jedoch hat sich jede Partei innerhalb einer im Berichte festzusetzenden Frist darüber zu erklären, ob und inwieweit sie die Feststellungen des Berichts anerkennt und dessen Vorschläge annimmt. Diese Frist darf die Zeit von drei Monaten nicht überschreiten.

Es ist Sache der Parteien, im gemeinsamen Einverständnis zu bestimmen, ob der Bericht unverzüglich veröffentlicht werden soll. Kommt es jedoch nicht zu einem solchen Einverständnis, so kann der Ständige Vergleichsrat seinerseits aus besonderen Gründen die sofortige Veröffentlichung des Berichts veranlassen.

ART. 20. Der ständige Vergleichsrat tritt in Wirksamkeit, sobald er von einer Partei angerufen wird. Diese richtet ihr Begehren gleichzeitig an den Vorsitzenden des Ständigen Vergleichsrats und an die andere Partei. Der Vorsitzende hat den Ständigen Vergleichsrat in kürzester Frist einzuberufen.

Die vertragschliessenden Teile verpflichten sich, die Arbeiten des Ständigen Vergleichsrats in weitmöglichstem Masse zu fördern und insbesondere alle Mittel, worüber sie nach Massgabe ihrer inneren Gesetzgebung verfügen, zu benutzen, um ihm zu gestatten, in ihrem Gebiete Zeugen und Sachver-

to shorten or extend this time-limit. The report shall be drawn up in three copies, one of which shall be handed to each of the Parties and the third preserved in the archives of the Permanent Board of Conciliation.

The report shall not, either as regards statement of fact or as regards legal considerations, be in the nature of a final judgment binding upon the Parties. Each Party shall, however, state, within a time-limit to be fixed by the report, whether and within what limits it recognises the correctness of the facts noted in the report and accepts the proposals which it contains. The duration of this time-limit shall not exceed three months.

The Parties shall jointly decide whether the report should be published immediately. If they fail to reach an agreement on this point the Permanent Board of Conciliation may cause the report to be published immediately should there be special reasons for so doing.

ART. 20. The Permanent Board of Conciliation shall take action immediately a dispute has been referred to it by either of the Parties. Such Party shall communicate its request simultaneously to the chairman of the Permanent Board of Conciliation and to the other Party. The chairman shall summon the Permanent Board of Conciliation to meet at the earliest possible moment.

The Parties undertake to assist the Permanent Board of Conciliation in every possible way, and in particular to employ all the means placed at their disposal by their internal laws for the purpose of enabling the Board to cite and take



ständige vorzuladen und zu vernehmen. Der Ständige Vergleichsrat kann die Beweise entweder in vollständiger Besetzung oder durch den Vorsitzenden erheben.

ART. 21. Der Ständige Vergleichsrat ist beschlussfähig, wenn alle Mitglieder ordnungsmässig geladen und wenn der Vorsitzende und mindestens zwei andere Mitglieder anwesend sind.

Der Ständige Vergleichsrat trifft seine Entschliessungen mit einfacher Stimmenmehrheit. Jedes der Mitglieder hat eine Stimme; im Falle der Stimmgleichheit hat der Vorsitzende eine doppelte Stimme.

In dem Bericht wird die abweichende Ansicht eines in der Minderheit gebliebenen Mitglieds festgestellt.

ART. 22. Jede Partei gewährt den von ihr ernannten Mitgliedern des Ständigen Vergleichsrats eine Vergütung und trägt die Hälfte der dem Vorsitzenden zu gewährenden Vergütung. Die Parteien werden sich nach Möglichkeit über eine einheitliche Bemessung der den Mitgliedern des Ständigen Vergleichsrats zu gewährenden Vergütung verständigen.

Jede Partei trägt die von ihr veranlassten Kosten des Verfahrens sowie die Hälfte der Kosten, die von dem Ständigen Vergleichsrat als gemeinsamen bezeichnet werden.

ART. 23. Der im Schiedsgerichtsverfahren gefällte Spruch ist von den Parteien nach Treu und Glauben zu erfüllen.

Die vertragschliessenden Teile verpflichten sich, während der Dauer des Schiedsgerichts- oder Vergleichsverfahrens nach Möglichkeit jede Massnahme zu ver-

the evidence of witnesses and experts who are in their respective territories and also to carry out enquiries on the spot. The Board may obtain evidence either *in pleno* or through its Chairman.

ART. 21. The deliberations of the Permanent Board of Conciliation shall be valid if all the members have been duly convoked and if the chairman and at least two other members are present at the meeting.

Decisions of the Permanent Board of Conciliation shall be taken by a majority vote. Each member shall have one vote: if the votes are equally divided the chairman shall give a casting vote.

The opinion of any member of a minority of the Tribunal who dissents from the award shall be duly recorded in the Board's report.

ART. 22. Each Party shall pay the emoluments of the members of the Permanent Board of Conciliation appointed by itself and shall bear the cost of half the emoluments of the chairman. The Parties shall, as far as possible, agree on a uniform scale for assessing the emoluments of all the members of the Permanent Board of Conciliation.

Each Party shall bear its own costs and half of the costs which the Permanent Board of Conciliation declares to be common to both Parties.

ART. 23. The award pronounced as the result of the procedure of arbitration shall be carried out in good faith by the Parties concerned.

The Contracting Parties shall undertake, during the course of the arbitration or conciliation proceedings, to refrain as far as possible

meiden, die auf die Erfüllung des Schiedsspruchs oder die Annahme der Vorschläge des Ständigen Vergleichsrats nachteilig zurückwirken könnte. Bei einem Vergleichsverfahren haben sie sich bis zu dem Zeitpunkt, den der Ständige Vergleichsrat für die Annahmeerklärung der Parteien festsetzt, jeder gewaltsamen Selbsthilfe zu enthalten.

Das Schiedsgericht kann auf Verlangen einer Partei die vorsorglichen Massnahmen bezeichnen, die zum Schutze der Rechte dieser Partei getroffen werden müssen, soweit diese Massnahmen von den Parteien auf dem Verwaltungswege durchgeführt werden können; ebenso kann der Ständige Vergleichsrat zum gleichen Zwecke Vorschläge machen.

ART. 24. Unter Vorbehalt entgegenstehender Bestimmungen des gegenwärtigen Vertrags oder der Schiedsordnung ist für das Schiedsgerichts- und Vergleichsverfahren das Haager Abkommen zur friedlichen Erledigung internationaler Streitfälle vom 18. Oktober 1907 massgebend.

Soweit der gegenwärtige Vertrag auf die Bestimmungen des Haager Abkommens verweist, finden sie im Verhältnis zwischen den vertragschliessenden Teilen selbst dann Anwendung, wenn diese oder einer von ihnen von dem Abkommen zurückgetreten sein sollten.

Sofern weder der gegenwärtige Vertrag noch die Schiedsordnung noch die sonst zwischen den vertragschliessenden Teilen bestehenden Übereinkünfte die Fristen und andere Einzelheiten des Schiedsgerichts- oder Vergleichsverfahrens festlegen, ist das Schiedsgericht oder der Ständige Vergleichsrat selbst befugt, die erforderlichen Bestimmungen zu treffen.

from any action liable to have a prejudicial effect on the execution of the arbitral award or on the acceptance of the proposals of the Permanent Board of Conciliation. In the case of conciliation proceedings they shall refrain from resorting to forcible measures of any kind until the expiration of the time-limit fixed by the Permanent Board of Conciliation for the acceptance of its proposals.

The Arbitral Tribunal may, at the request of either of the Parties, prescribe measures of precaution to safeguard the rights of such Party, provided that such measures can be carried out by the Parties through their administrative machinery. The Permanent Board of Conciliation may also make proposals for the same purpose.

ART. 24. Subject to any provisions to the contrary laid down in the present Convention or the agreement of reference, the procedure of arbitration and conciliation shall be regulated by the Hague Convention of October 18, 1907, for the pacific settlement of international disputes.

In so far as the present Convention refers to the stipulations of the Hague Convention, the latter shall continue to be applicable to the relations between the Contracting Parties, even if one or both of them denounce the Hague Convention.

In so far as the present Convention, or the agreement of reference, or any other Conventions in force between the Parties do not lay down the time-limits and other details connected with the procedure of arbitration or conciliation, the Tribunal of the Permanent Board of Conciliation shall itself be competent to decide as to the necessary provisions.

ART. 25. Der gegenwärtige Vertrag soll ratifiziert werden, und zwar schwedischerseits von Seiner Majestät dem König von Schweden mit Zustimmung des Reichstags. Die Ratifikationsurkunden sollen in Stockholm ausgetauscht werden.

Der Vertrag tritt einen Monat nach dem Austausch der Ratifikationsurkunden in Kraft.

Der Vertrag gilt für die Dauer von zehn Jahren. Wird er nicht sechs Monate von Ablauf dieses Zeitraums gekündigt, so bleibt er für weitere zwei Jahre in Kraft. Das gleiche gilt, wenn der Vertrag nicht mit der bezeichneten Frist gekündigt wird, für die spätere Zeit.

Ein Schiedsgerichtsverfahren oder ein Vergleichsverfahren, das bei Ablauf des gegenwärtigen Vertrags schwebt, nimmt seinen Lauf nach den Bestimmungen dieses Vertrags oder eines anderen Abkommens, das von den vertragsschliessenden Teilen an dessen Stelle vereinbart wird.

Zu Urkund dessen haben die Bevollmächtigten den gegenwärtigen Vertrag unterzeichnet.

Ausgefertigt in doppelter Urschrift in deutscher und schwedischer Sprache in Berlin am 29. August 1924.

Friedrich Gaus  
Fredrik Ramel

ART. 25. The present Convention shall be ratified on behalf of Sweden by His Majesty the King of Sweden, subject to the consent of Parliament. The instruments of ratification shall be exchanged at Stockholm.

The Convention shall come into force one month after the exchange of the instruments of ratification.

The Convention shall be valid for a period of ten years. If, however, it is not denounced six months before the expiration of this period, it shall remain in force for a further period of two years, and so on, so long as it has not been denounced within the prescribed period.

If a dispute which has been referred to arbitration or conciliation has not been settled when the present Treaty expires, the case shall be proceeded with according to the stipulations of the present Convention or of any other convention which the Contracting Parties may agree to substitute therefor.

In witness whereof the plenipotentiaries have signed the present Treaty.

Done in duplicate in German and Swedish at Berlin on August 29, 1924.

Fredrik Ramel  
Friedrich Gaus<sup>1</sup>

#### FINAL PROTOCOL

(1) Die vertragschliessenden Teile gehen von der Ansicht aus, dass die einzelnen Bestimmungen des Vertrags im Zweifel zugunsten der Anwendung des Grundsatzes der schiedsgerichtlichen Erledigung von Streitigkeiten auszulegen sind.

(1) The Contracting Parties are agreed that in doubtful cases the stipulations of the present Convention shall be interpreted in favour of the application of the principle of settlement of disputes by arbitration.

<sup>1</sup> The translation reverses the order of the signatures, both here and in the Final Protocol.

(2) Die vertragschliessenden Teile erklären, dass der Vertrag auch dann Anwendung findet, wenn eine Streitigkeit in Ereignissen ihren Ursprung hat, die zeitlich vor seinem Abschluss liegen. Etwaige mit Ereignissen des Weltkrieges in unmittelbarem Zusammenhange stehende Streitigkeiten werden jedoch mit Rücksicht auf ihre allgemeine politische Bedeutung hiervon ausgeschlossen.

(3) Die Tatsache, dass an einer Streitigkeit dritte Staaten beteiligt sind, schliesst die Anwendung des Vertrags nicht aus. Die vertragschliessenden Teile werden gegebenenfalls dahin wirken, die dritten Staaten zum Anschluss an das Schiedsgerichts- oder Vergleichsverfahren zu veranlassen. Für diesen Fall bleibt es den beiderseitigen Regierungen vorbehalten, im gemeinsamen Einverständnis eine besondere Zusammensetzung des Schiedsgerichts oder des Ständigen Vergleichsrats vorzuschlagen. Kann eine Verständigung mit den dritten Staaten über deren Anschluss nicht binnen angemessener Frist herbeigeführt werden, so nimmt das Verfahren zwischen den vertragschliessenden Teilen den im Verträge vorgesehenen Verlauf.

(4) Die vertragschliessenden Teile erklären, dass Streitigkeiten zwischen Deutschland und einem dritten Staate, an denen Schweden in seiner Eigenschaft als Mitglied des Völkerbundes beteiligt werden könnte, nicht als Streitigkeiten zwischen den vertragschliessenden Teilen im Sinne des Vertrages angesehen werden können.

Berlin, den 29. August 1924.  
Friedrich Gaus  
Fredrik Ramel

(2) The Contracting Parties declare that the Convention shall apply equally to disputes arising out of events which occurred prior to its conclusion. In consideration of their general political bearing, an exception shall, however, be made with regard to disputes arising directly out of the world-war.

(3) The Convention shall not cease to be applicable if a third State is concerned in a dispute. The Contracting Parties shall endeavour, if necessary, to induce the third State to agree to refer the dispute to arbitration or conciliation. In this case the two Governments may, if they so desire, jointly provide that the Tribunal or the Permanent Board of Conciliation shall be composed of members specially chosen for the case. If no agreement is reached with the third State within a reasonable period, the Contracting Parties shall proceed with the case in accordance with the provisions of the Convention.

(4) The Contracting Parties declare that disputes between Germany and a third State, in which Sweden might be interested as a Member of the League of Nations, cannot be considered as disputes between the Contracting Parties in the sense intended by the present Convention.

Berlin, August 29, 1924.  
Fredrik Ramel  
Friedrich Gaus

## EXCHANGE OF NOTES

(1) *The Swedish Minister in Berlin to the German Foreign Office*

Berlin, den 29 augusti 1924.

Royal Swedish Legation,  
Berlin.

Berlin, August 29, 1924.

Herr Ministerialdirektör,

I anslutning till det denna dag skedda undertecknandet av den svensk-tyska skiljedoms- och förlikningskonventionen har jag äran, på uppdrag av min regering, härmed bekräfta följande:

För den händelse, att Tyskland skulle ansluta sig till den fasta mellanfolkliga domstolen i Haag eller inträda såsom medlem i Nationernas förbund, är avsett, att de skiljedomsstolen enligt konventionen åvilande uppgifter på sätt, varom närmare överenskommelse då skall träffas, överflyttas på den fasta mellanfolkliga domstolen.

Mottag, Herr Ministerialdirektör, försäkring om min utmärkta högaktning.

Ramel

Sir,

With reference to the signature, on the present day, of the Swedish-German Convention of Arbitration and Conciliation, I am instructed by my Government to confirm the following declaration:

In the event of Germany adhering to the Permanent Court of International Justice at The Hague, or becoming a Member of the League of Nations, it is the intention of the Contracting Parties that the duties assigned by the above-mentioned Convention to the Arbitral Tribunal shall be entrusted to the Permanent Court of International Justice, in pursuance of a further agreement to be concluded to that effect.

I have the honour to be, etc.

Ramel

Dr. Friedrich Gaus,  
Head of Division at the  
Ministry for Foreign Affairs,  
Berlin.

(2) *The German Foreign Office to the Swedish Minister in Berlin*

Berlin, den 29. August 1924.

German Ministry  
for Foreign Affairs.  
No. V. J. 3179.

Berlin, August 29, 1924.

Herr Gesandter!

In Erwiderung Ihres heutigen Schreibens beehre ich mich Ihnen mit Beziehung auf die heute erfolgte Unterzeichnung des deutsch-schwedischen Schiedsgerichts- und Vergleichsvertrage im Auftrage meiner Regierung hiermit folgen- des zu bestätigen:

Für den Fall, dass Deutschland dem Ständigen Internationalen

Your Excellency,

In reply to your Note of to-day's date, and with reference to the signature on this day of the German-Swedish Convention of Arbitration and Conciliation, I am instructed by my Government to confirm the following declaration:

In the event of Germany adhering to the Permanent Court of International Justice at The Hague

Gerichtshof im Haag beitreten oder Mitglied des Völkerbundes werden sollte, wird in Aussicht genommen, die im Vertrage dem Schiedsgericht überwiesenen Aufgaben nach einer alsdann zu treffenden näheren Vereinbarung auf den Ständigen Internationalen Gerichtshof übergehen zu lassen.

Gern benutze ich auch diesen Anlass, um Ihnen, Herr Gesandter, die Versicherung meiner ausgezeichnetsten Hochachtung zu erneuern.

Gaus

or becoming a Member of the League of Nations, it is the intention of the Contracting Parties that the duties assigned by the above-mentioned Convention to the Arbitral Tribunal shall be entrusted to the Permanent Court of International Justice in pursuance of a further agreement to be concluded to that effect.

I have the honour to be, etc.,

Gaus

To

Baron Ramel,  
Royal Swedish Minister.

#### PERMANENT COMMISSION OF CONCILIATION

(Appointed April 1, 1926)

##### *President appointed by both Parties*

EUGÈNE BOREL, Professor at the University of Geneva, former Chairman of the Anglo-German Mixed Arbitral Tribunal. (*Swiss.*)

##### *Members appointed by Germany*

W. SIMONS, President of the German Reichsgericht. (*German.*)

JONKHEER W. J. M. VAN EYSINGA, Professor at the University of Leyden. (*Dutch.*)

##### *Members appointed by Sweden*

ERNST TRYGGER, former Prime Minister of Sweden, former Judge of the Supreme Court of Sweden. (*Swedish.*)

ANTTI TULENHEIMO, Professor at the University of Helsingfors, former Prime Minister of Finland. (*Finnish.*)

## No. 29

ITALY-SWITZERLAND: TREATY OF CONCILIATION  
AND COMPULSORY ADJUDICATION

Signed at Rome September 20, 1924; ratifications exchanged January 29, 1925.

Original text from Switzerland, *Recueil des Lois fédérales*, 1925, No. 6; <sup>1</sup> English translation from League of Nations, *Treaty Series*, XXXIII, 93-101.

(Translation)

Le Conseil Fédéral Suisse et Sa Majesté le Roi d'Italie

animés du désir de resserrer toujours davantage les liens d'amitié et de bon voisinage qui unissent la Suisse et l'Italie,

pénétrés de l'esprit de confiance cordialité qui caractérise leurs rapports réciproques,

ont résolu de conclure un Traité pour le règlement amiable des différends qui pourraient s'élever entre les deux Pays, et ont nommé à cet effet leurs Plénipotentiaires, savoir:

Le Conseil fédéral suisse:

Monsieur Georges Wagnière, Envoyé Extraordinaire et Ministre Plénipotentiaire de la Confédération Suisse en Italie,

Sa Majesté le Roi d'Italie:

Monsieur Benito Mussolini, Président du Conseil des Ministres, Ministre des Affaires Etrangères,

lesquels, après s'être fait connaître leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Les Parties contractantes, vu les relations d'amitié et de confiance qui les unissent, s'engagent à soumettre à une procédure de conciliation tous les différends, de quelque nature qu'ils soient, qui s'élèveraient entre elles et n'auraient pu être résolus par la

The Swiss Federal Council and His Majesty the King of Italy, being desirous of strengthening still further the ties of friendship and neighbourliness which unite Switzerland and Italy, and being imbued with that spirit of confidence and cordiality which characterises their mutual relations,

have resolved to conclude a Treaty for the friendly settlement of any disputes that may arise between the two countries, and have for this purpose appointed as their Plenipotentiaries:

The Swiss Federal Council:

M. Georges Wagnière, Envoy Extraordinary and Minister Plenipotentiary of the Swiss Confederation in Italy, and

His Majesty the King of Italy:

M. Benito Mussolini, President of the Council of Ministers and Minister for Foreign Affairs,

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1. The Contracting Parties, in view of the friendly and confident relations existing between them, undertake to submit to a procedure of conciliation all disputes of any nature whatever which may arise between them and which it may not have been possi-

<sup>1</sup> See also League of Nations, *Treaty Series*, XXXIII, 92.

voie diplomatique dans un délai raisonnable.

En cas d'échec de la procédure de conciliation, un règlement judiciaire sera recherché conformément aux articles 15 et suivants du présent traité.

Demeurent réservés les différends pour la solution desquels une procédure spéciale est prescrite par d'autres conventions en vigueur entre les Parties contractantes.

ART. 2. S'il s'agit d'un différend qui, à teneur de la législation intérieure de l'une des Parties, relève de la compétence des tribunaux, la Partie défenderesse pourra s'opposer à ce qu'il soit soumis à une procédure de conciliation et, le cas échéant, à un règlement judiciaire avant qu'un jugement définitif ait été rendu par l'autorité judiciaire compétente.

La demande de conciliation devra, dans ce cas, être formée une année, au plus tard, à compter de ce jugement.

ART. 3. Les Parties contractantes institueront une Commission permanente de conciliation composée de cinq membres.

Elles nommeront chacune un membre à leur gré et désigneront les trois autres d'un commun accord. Ces trois membres ne devront, ni être des ressortissants des Parties contractantes, ni avoir leur domicile sur leur territoire ou se trouver à leur service.

Le président de la Commission sera nommé, d'un commun accord, parmi les membres désignés en commun.

Tant que la procédure n'est pas ouverte, chacune des Parties contractantes aura le droit de révoquer le commissaire nommé par elle et de lui désigner un successeur, comme aussi de retirer son consentement à la nomination de

ble to settle within a reasonable time by diplomacy.

In the event of the procedure of conciliation proving unsuccessful, a judicial settlement shall be sought in conformity with Articles 15 *et seq.* of the present Treaty.

The above shall not apply to disputes for the solution of which a special procedure is laid down by other Conventions in force between the Contracting Parties.

ART. 2. In the case of a dispute which, according to the domestic legislation of one of the Parties, comes within the jurisdiction of the Courts, the defendant Party may oppose the submission of the dispute to a procedure of conciliation or, alternatively, to a judicial settlement, until a final judgment has been given by the competent judicial authority.

In this case the request for conciliation procedure must be made within a year at most from the date of such judgment.

ART. 3. The Contracting Parties shall establish a Permanent Conciliation Commission composed of five members.

Each Party shall nominate one member of its own choosing, the other three being appointed by joint agreement. The latter may not be nationals of the Contracting States, nor be domiciled in their territory nor be employed in their service.

The President of the Commission shall be appointed by joint agreement from among the jointly selected members.

So long as the procedure has not begun, each Contracting Party shall have the right to revoke the appointment of its nominee and replace him by another, and also to withdraw its consent to the appointment of any of the three mem-



chacun des trois membres désignés en commun. Dans ce cas, il y aura lieu de procéder sans délai au remplacement des membres dont le mandat a pris fin.

Il sera pourvu au remplacement des commissaires selon le mode fixé pour leur nomination.

ART. 4. La Commission sera constituée dans les six mois qui suivront l'échange des ratifications du présent traité.

Si la nomination des membres à désigner en commun n'intervient pas dans ce délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, il sera procédé aux nominations conformément à l'article 45 de la Convention de La Haye pour le règlement pacifique des conflits internationaux du 18 octobre 1907.

ART. 5. La Commission permanente de conciliation aura pour tâche de faciliter la solution du différend, en éclaircissant, par un examen impartial et consciencieux, les questions de fait et en formulant des propositions en vue du règlement de la contestation.

Elle sera saisie sur requête adressée à son président par l'une des Parties contractantes.

Notification de cette requête sera faite, en même temps, à la Partie adverse par la Partie qui demande l'ouverture de la procédure de conciliation.

ART. 6. La Commission se réunira, sauf convention contraire, au lieu désigné par son président.

ART. 7. La procédure devant la Commission sera contradictoire.

La Commission réglera elle-même la procédure, en tenant compte, sauf décision contraire prise à l'unanimité, des dispositions contenues au titre III de la Con-

bers nominated jointly. In this case the necessary replacement shall be effected without delay.

Members shall be replaced under the same conditions as were observed in their appointment.

ART. 4. The Commission shall be set up within six months after the ratifications of the present Treaty have been exchanged.

If the appointment of the members to be nominated jointly is not made within this period or, in case of their replacement, within three months after the vacancy occurs, such appointments shall be made in accordance with Article 45 of the Hague Convention of October 18, 1907, for the pacific settlement of international disputes.

ART. 5. The task of the Permanent Conciliation Commission shall be to further the settlement of disputes by an impartial and conscientious examination of the facts and by formulating proposals with a view to settling the case.

The Commission shall be seized of a question by an application addressed to its president by one of the Contracting Parties.

This application shall be notified at the same time to the opposing Party by the Party which is requesting the institution of the procedure of conciliation.

ART. 6. The Commission shall meet at the place chosen by the president, unless there is an agreement to the contrary.

ART. 7. In proceedings before the Commission both Parties shall be heard.

The Commission shall draw up its own rules of procedure, regard being had to the regulations laid down in Title III of the Hague

vention de La Haye pour le règlement pacifique des conflits internationaux, du 18 octobre 1907.

ART. 8. Les délibérations de la Commission auront lieu à huis clos, à moins que la Commission, d'accord avec les Parties, n'en décide autrement.

ART. 9. Les Parties contractantes auront le droit de nommer, auprès de la Commission, des agents spéciaux, qui serviront, en même temps, d'intermédiaires entre elles et la Commission.

ART. 10. Sauf disposition contraire du présent traité, les décisions de la Commission seront prises à la majorité simple des voix.

ART. 11. Les Parties contractantes s'engagent à faciliter, dans la plus large mesure possible, les travaux de la Commission et, en particulier, à user de tous les moyens dont elles disposent, d'après leur législation intérieure, pour lui permettre de procéder, sur leur territoire, à la citation et à l'audition de témoins ou d'experts, ainsi qu'à des descentes sur les lieux.

ART. 12. La Commission présentera son rapport dans les six mois à compter du jour où elle aura été saisie du différend, à moins que les Parties contractantes ne décident, d'un commun accord, de proroger ce délai.

Un exemplaire du rapport sera remis à chacune des Parties.

Le rapport de la Commission n'aura, ni en ce qui concerne l'exposé des faits, ni en ce qui concerne les considérations juridiques, le caractère d'une sentence arbitrale.

Convention of October 18, 1907, for the pacific settlement of international disputes, unless the Commission unanimously decides otherwise.

ART. 8. The deliberations of the Commission shall be heard in private, unless in agreement with the Parties the Commission decides otherwise.

ART. 9. The Contracting Parties shall be entitled to appoint special agents on the Commission. These agents shall also act as intermediaries between the Parties and the Commission.

ART. 10. The Commission shall take its decisions by a majority vote of its members, except as otherwise laid down in the present Treaty.

ART. 11. The Contracting Parties undertake to give the Commission all possible assistance in its work, and, in particular, to employ all the means placed at their disposal by their domestic legislation to enable it to call and hear witnesses or experts within their territory as well as to carry out investigations on the spot.

ART. 12. The Commission shall make its report within six months from the day when the dispute is submitted to it, unless the Contracting Parties agree to an extension of this period.

A copy of the report shall be sent to each Party.

The Commission's report shall not be in the nature of an arbitral award, as regards either the statement of facts or the legal considerations.

ART. 13. La Commission de conciliation fixera le délai dans lequel les Parties auront à se prononcer à l'égard de ses propositions.

Ce délai n'excédera pas toutefois la durée de trois mois.

ART. 14. Pendant la durée effective de la procédure, les membres de la Commission de conciliation recevront une indemnité dont le montant sera arrêté entre les Parties contractantes.

Chaque Partie supportera ses propres frais et une part égale des frais de la Commission.

ART. 15. Si l'une des Parties n'accepte pas les propositions de la Commission permanente de conciliation ou ne se prononce pas dans le délai fixé par son rapport, chacune d'elles pourra demander que le litige soit soumis à la Cour Permanente de Justice Internationale.

Dans le cas où, de l'avis de la Cour, le litige ne serait pas d'ordre juridique, les Parties conviennent qu'il sera tranché *ex aequo et bono*.

ART. 16. Les Parties contractantes établiront, dans chaque cas particulier, un compromis spécial déterminant nettement l'objet du différend, les compétences particulières qui pourraient être dévolues à la Cour Permanente de Justice Internationale, ainsi que toutes autres conditions arrêtées entre elles.

Le compromis sera établi par échange de notes entre les Gouvernements des Parties contractantes.

Il sera interprété en tous points par la Cour de Justice.

Si le compromis n'est pas arrêté dans les trois mois à compter du jour où l'une des Parties a été saisie d'une demande aux fins de règle-

ART. 13. The Conciliation Commission shall fix the period within which the Parties will be required to take their decision as regards the Commission's proposals.

This period shall not, however, exceed three months.

ART. 14. For the actual duration of the procedure the members of the Conciliation Commission shall receive an allowance to be fixed by an arrangement between the Contracting Parties.

Each Party shall bear its own costs and half the costs of the Com-

ART. 15. If one of the Parties does not accept the proposals of the Permanent Conciliation Commission, or does not announce its decision within the period prescribed in the report, either Party may request that the dispute be submitted to the Permanent Court of International Justice.

If, in the opinion of the Court, the case is not of a juridical nature, the Parties shall agree to its being settled *ex aequo et bono*.

ART. 16. In each particular case the Contracting Parties shall draw up a special agreement (*compromis*) specifying clearly the subject of the dispute, the particular competence that might devolve upon the Permanent Court of International Justice, and any other conditions fixed between themselves.

The agreement shall be constituted by an exchange of notes between the Governments of the Contracting Parties.

All points contained therein shall be interpreted by the Court of Justice.

If the agreement is not drawn up within three months from the day on which one of the Parties was requested to submit the matter for

ment judiciaire, chaque Partie pourra saisir la Cour de Justice par voie de simple requête.

ART. 17. Si la Cour Permanente de Justice Internationale établissait qu'une décision d'une instance judiciaire ou de toute autre autorité relevant de l'une des Parties contractantes se trouve entièrement ou partiellement en opposition avec le droit des gens, et si le droit constitutionnel de cette Partie ne permettait pas ou ne permettait qu'imparfaitement d'effacer par voie administrative les conséquences de la décision dont il s'agit, il serait accordé à la Partie lésée une satisfaction équitable d'un autre ordre.

ART. 18. L'arrêt rendu par la Cour Permanente de Justice Internationale sera exécuté de bonne foi par les Parties.

Les difficultés auxquelles son interprétation pourrait donner lieu seront tranchées par la Cour de Justice, que chacune des Parties pourra saisir à cette fin par voie de simple requête.

ART. 19. Durant le cours de la procédure de conciliation ou de la procédure judiciaire, les Parties contractantes s'abstiendront de toute mesure pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission de conciliation ou sur l'exécution de l'arrêt de la Cour Permanente de Justice Internationale.

ART. 20. Les contestations qui surgiraient au sujet de l'interprétation ou de l'exécution du présent traité seront, sauf convention contraire, soumises directement à la Cour Permanente de Justice Internationale par voie de simple requête.

judicial settlement, either Party may bring the question before the Court of Justice by a simple application.

ART. 17. Should the Permanent Court of International Justice find that a decision of a court of law or other authority of one of the Contracting States is wholly or partly at variance with international law, and should the constitutional law of that State not allow, or only inadequately allow, the cancellation of this decision by administrative procedure, the Party prejudiced shall be granted equitable satisfaction in some other form.

ART. 18. The judgment given by the Permanent Court of International Justice shall be acted upon by the Parties in good faith.

Any difficulties regarding the interpretation of the judgment shall be settled by the Court of Justice upon a simple application for this purpose by either Party.

ART. 19. During the procedure of conciliation or the judicial procedure, the Contracting Parties shall abstain from all measures which might prejudicially affect the acceptance of the proposals of the Conciliation Commission or the execution of the judgment of the Permanent Court of International Justice.

ART. 20. Any disputes which may arise as to the interpretation or the execution of the present Treaty shall, in the absence of any agreement to the contrary, be submitted direct to the Permanent Court of International Justice by simple application.

ART. 21. Le présent traité sera ratifié. Les instruments de ratification en seront échangés à Rome dans le plus bref délai possible.

Le traité entrera en vigueur dès l'échange des ratifications. Il est conclu pour la durée de dix ans à compter de son entrée en vigueur. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il sera censé être renouvelé pour une nouvelle période de cinq ans, et ainsi de suite.

Si une procédure de conciliation ou une procédure judiciaire est pendante lors de l'expiration du présent traité, elle suivra son cours conformément aux dispositions du présent traité ou de toute autre convention que les Parties contractantes seraient convenues de lui substituer.

En foi de quoi, les Plénipotentiaires ont signé le présent traité.

Fait, en double exemplaire, à Rome, le vingt septembre 1924.

*Pour la Suisse:* Wagnière

*Pour l'Italie:* Mussolini

ART. 21. The present Treaty shall be ratified and the instruments of ratification shall be exchanged at Rome as soon as possible.

The Treaty shall come into force as soon as the instruments of ratification have been exchanged. It shall be concluded for a period of ten years from the date of its coming into force. Unless denounced six months before the expiration of this period, it shall be deemed to have been renewed for a further period of five years, and similarly thereafter.

If a procedure of conciliation or a judicial procedure is pending at the time of the expiration of the present Treaty, it shall pursue its course in accordance with the provisions of the present Treaty or any other convention which the Contracting Parties may have agreed to substitute therefor.

In faith whereof, the Plenipotentiaries have signed the present Treaty.

Done in duplicate, at Rome, on the twentieth day of September, 1924.

*For Switzerland:* Wagnière  
*For Italy:* Mussolini

#### PERMANENT COMMISSION OF CONCILIATION

##### *President appointed by both Parties*

BARON MARKS VON WÜRTEMBERG, President of the Court of Appeal at Stockholm, former Minister for Foreign Affairs of Sweden. (*Swedish.*)

##### *Members appointed by both Parties*

LOUIS FRANCK, former Minister for the Colonies of Belgium, Member of the Belgian Chamber of Representatives. (*Belgian.*)

JOAQUÍN F. PRIDA, Professor at the University of Madrid, former Minister of State of Spain. (*Spanish.*)

##### *Member appointed by Italy*

MARQUIS PAULUCCI DI CALBOLI, former Italian Ambassador to Spain and Switzerland. (*Italian.*)

##### *Member appointed by Switzerland*

WALTER BURCKHARDT, Professor at the University of Berne. (*Swiss.*)

## No. 30

AUSTRIA-SWITZERLAND: TREATY OF  
CONCILIATION

Signed at Vienna October 11, 1924; ratifications exchanged May 1, 1925.

Original text from Switzerland, *Eidgenössische Gesetzsammlung*, 1925, No. 12;<sup>1</sup> English translation from League of Nations, *Treaty Series*, XXXIII, 428-432.

(Translation)

Der Schweizerische Bundesrat  
und der Bundespräsident der Re-  
publik Österreich,

von dem Wunsche geleitet, die  
zwischen der Schweizerischen Eid-  
genossenschaft und der Republik  
Österreich bestehenden freund-  
schaftlichen Beziehungen zu festi-  
gen und das Ihre dazu beizutragen,  
im Dienste des Friedensgedankens  
das Vergleichsverfahren zur Schlich-  
tung zwischenstaatlicher Streitig-  
keiten zu fördern,

haben beschlossen, zu diesem  
Zwecke einen Vertrag abzuschlie-  
ssen und haben zu ihren Bevoll-  
mächtigten ernannt:

Der Schweizerische Bundesrat:

Herrn Charles Daniel Bourcart,  
ausserordentlichen Gesandten und  
bevollmächtigten Minister der  
Schweizerischen Eidgenossenschaft  
in Wien;

Der Bundespräsident der Re-  
publik Österreich:

Herrn Dr. Alfred Grünberger,  
Bundesminister für die Auswärti-  
gen Angelegenheiten,

die, nachdem sie sich ihre Voll-  
machten mitgeteilt und sie in guter  
und gehöriger Form befunden ha-  
ben, über folgende Bestimmungen  
übereingekommen sind:

ARTIKEL 1. Die vertragschlie-  
ssenden Teile verpflichten sich, alle  
Streitigkeiten irgendwelcher Art,  
die zwischen ihnen entstehen und

The Swiss Federal Council and  
the President of the Austrian Re-  
public, being desirous of strength-  
ening the ties of friendship which  
unite Switzerland and Austria, and  
of encouraging in the interests of  
general peace the development of  
the procedure of conciliation as  
applied to international disputes,  
have resolved to conclude a treaty  
for this purpose and have appointed  
as their Plenipotentiaries:

The Swiss Federal Council:

M. Charles-Daniel Bourcart, En-  
voy Extraordinary and Minister  
Plenipotentiary of the Swiss Con-  
federation at Vienna;

The President of the Austrian  
Republic:

Dr. Alfred Grünberger, Minister  
for Foreign Affairs,

Who, having communicated their  
full powers, found in good and due  
form, have agreed upon the follow-  
ing provisions:

ARTICLE 1. The Contracting  
Parties undertake, prior to any  
procedure before an international  
or arbitral Tribunal, to submit to

<sup>1</sup> See also League of Nations, *Treaty Series*, XXXIII, 424.

nicht auf diplomatischem Wege geschlichtet werden können, vorgängig jedem Verfahren vor einem zwischenstaatlichen Gerichte oder Schiedsgerichte dem in den folgenden Artikeln geregelten Vergleichsverfahren zu unterwerfen, sofern nicht, gemäss Artikel 36 des Statutes des ständigen internationalen Gerichtshofes, die Zuständigkeit dieses Gerichtshofes zur Entscheidung des Streitfalles gegeben ist.

Es steht jeder Partei zu, darüber zu befinden, von welchem Zeitpunkt an das Vergleichsverfahren an die Stelle der diplomatischen Verhandlungen zu treten hat.

ART. 2. Auch wenn, gemäss Artikel 36 des Statutes des ständigen internationalen Gerichtshofes, die Zuständigkeit dieses Gerichtshofes zur Entscheidung eines Streitfalles gegeben ist, bleibt es den vertragschliessenden Teilen unbenommen, im gemeinsamen Einvernehmen den Streitfall zuvor dem Vergleichsverfahren zu unterwerfen.

ART. 3. Die vertragschliessenden Teile bilden für das Vergleichsverfahren einen ständigen Vergleichsrat von drei Mitgliedern.

Sie ernennen, jeder für sich, nach freier Wahl je ein Mitglied und berufen den Vorsitzenden im gemeinsamen Einverständnis.

Der Vorsitzende soll nicht Angehöriger eines der vertragschliessenden Staaten sein, noch soll er auf deren Gebiet seinen Wohnsitz haben oder in deren Diensten stehen.

Der Vergleichsrat wird im Laufe von sechs Monaten nach Austausch der Ratifikationsurkunden des vorliegenden Vertrages gebildet.

Jedem vertragschliessenden Teile steht das Recht zu, sofern nicht ein Verfahren im Gange ist, das von ihm ernannte Mitglied abzurufen

the procedure of conciliation laid down in the following articles all disputes of any nature whatever which may arise between them and which it may not have been possible to settle through the diplomatic channel, provided that they shall not be capable of a judicial settlement in accordance with Article 36 of the Statute of the Permanent Court of International Justice.

Each of the Contracting Parties shall be free to decide at what period the procedure of conciliation may be substituted for diplomatic negotiations.

ART. 2. The Contracting Parties may agree to submit a dispute in the first instance to the procedure of conciliation, even though it is capable of being settled by the Permanent Court of International Justice in virtue of Article 36 of its Statute.

ART. 3. With a view to carrying out the procedure of conciliation the Contracting Parties shall establish a Permanent Commission composed of three members.

Each Party shall appoint one member of its own choosing, and the two Parties shall appoint the President by joint agreement.

The President shall not be a national of the Contracting States, nor be domiciled in their territory, nor be employed in their service.

The Commission shall be constituted within six months after the exchange of ratifications of the present Treaty.

So long as a procedure has not begun, either Contracting Party may revoke the appointment of its commissioner and appoint a successor, and may also withdraw its

und dessen Nachfolger zu bezeichnen, sowie die Zustimmung zur Berufung des Vorsitzenden zurückzuziehen. In diesem Falle muss unverzüglich zur Ersetzung der ausscheidenden Mitglieder geschritten werden.

Ausscheidende Mitglieder werden gemäss dem für die erstmalige Wahl massgebenden Verfahren ersetzt.

Wenn die Berufung des Vorsitzenden nicht innerhalb von sechs Monaten nach dem Austausch der Ratifikationsurkunden oder, im Falle einer Ergänzungswahl, nicht innerhalb von drei Monaten nach Ausscheiden des Mitgliedes stattgefunden hat, so erfolgen die Wahlen gemäss den Bestimmungen des Artikels 45 des Haager Abkommens zur friedlichen Erledigung internationaler Streitfälle vom 18. Oktober 1907.

Während der tatsächlichen Dauer des Verfahrens erhält der Vorsitzende des Vergleichsrates eine Entschädigung, deren Höhe von den vertragschliessenden Teilen zu vereinbaren und die von ihnen zu gleichen Teilen zu tragen ist.

Dagegen bestimmt und übernimmt jede Partei selbst die Entschädigung des von ihr ernannten Mitgliedes des Vergleichsrates.

ART. 4. Die Anrufung des ständigen Vergleichsrates erfolgt durch ein dahinzielendes Begehren, das von der einen Partei an den Vorsitzenden gerichtet wird.

Dieses Begehren wird von der Partei, welche die Eröffnung des Vergleichsverfahrens verlangt, gleichzeitig der andern Partei zur Kenntnis gebracht.

ART. 5. Unter Vorbehalt anderweitiger Vereinbarung tritt der ständige Vergleichsrat an dem vom Vorsitzenden bezeichneten Orte zusammen.

consent to the appointment of the President. In this case the commissioners whose mandates have been withdrawn shall be replaced without delay.

Commissioners shall be replaced under the same conditions as were observed in their appointment.

If the appointment of the President is not made within six months from the exchange of ratifications or, in the case of replacement, within three months after the vacancy occurs, these appointments shall be made in conformity with Article 45 of the Hague Convention of October 18, 1907 for the pacific settlement of international disputes.

For the actual duration of the procedure the President of the Conciliation Commission shall receive an allowance, to be fixed by an arrangement between the Contracting Parties and borne by them in equal shares.

Each Party shall fix and be responsible for the allowance of the Commissioner appointed by itself.

ART. 4. The Commission shall be seized of a question by an application addressed to its President by one of the Contracting Parties.

This application shall be notified at the same time to the opposing Party by the Party which is requesting the institution of the procedure of conciliation.

ART. 5. The Permanent Conciliation Commission shall meet at the place chosen by its President, unless there is an agreement to the contrary.



ART. 6. Der ständige Vergleichsrat hat die Aufgabe, die Schlichtung der Streitigkeit zu erleichtern, indem er in unparteiischer und gewissenhafter Prüfung den Sachverhalt untersucht und Vorschläge für die Beilegung der Streitigkeit macht.

Der Bericht des ständigen Vergleichsrates ist innerhalb von sechs Monaten von dem Tage an zu erstatten, an dem ihm die Streitigkeit unterbreitet worden ist, es sei denn, dass die vertragschliessenden Parteien diese Frist im gemeinsamen Einverständnis verkürzen oder verlängern. Jeder Partei wird eine Ausfertigung des Berichtes ausgehändigt.

Der Bericht hat weder in bezug auf die Tatsachen noch hinsichtlich der rechtlichen Ausführungen die Bedeutung einer bindenden Entscheidung.

ART. 7. Die vertragschliessenden Teile verpflichten sich, die Arbeiten des ständigen Vergleichsrates nach bestem Wissen und Vermögen zu fördern und insbesondere alle nach ihrer Gesetzgebung ihnen zur Verfügung stehenden Mittel anzuwenden, um es dem Vergleichsrat zu ermöglichen, auf ihrem Gebiete Zeugen und Sachverständige vorzuladen und zu vernehmen, sowie Augenscheine durchzuführen.

ART. 8. Unter Vorbehalt anderweitiger Vereinbarung ist für das Vergleichsverfahren das Haager Abkommen zur friedlichen Erledigung internationaler Streitfälle vom 18. Oktober 1907 massgebend.

ART. 9. Der ständige Vergleichsrat setzt die Frist fest, innerhalb deren die Parteien zu seinem Vorschlage Stellung zu nehmen haben. Diese Frist darf indessen die Zeit von drei Monaten nicht überschreiten.

ART. 6. The task of the Permanent Conciliation Commission shall be to further the settlement of disputes by an impartial and conscientious examination of the facts, and by submitting proposals with a view to settling the case.

The Commission's report shall be presented within six months from the day when the dispute is submitted to it, unless the Contracting Parties decide by joint agreement to curtail or extend this period. A copy of the report shall be sent to each Party.

The report shall not be in the nature of a compulsory award, as regards either the statement of facts or the legal considerations.

ART. 7. The Contracting Parties undertake to give the Permanent Conciliation Commission all possible assistance in its work and, in particular, to employ all the means placed at their disposal by their domestic legislation to enable the Commission to call and hear witnesses and experts within their territory, as well as to carry out investigations on the spot.

ART. 8. In the absence of an agreement to the contrary the procedure of conciliation shall be governed by the Hague Convention of October 18, 1907, for the pacific settlement of international disputes.

ART. 9. The Permanent Conciliation Commission shall fix the period within which the Parties will be required to take their decision as regards the Commission's proposals. This period shall not, however, exceed three months.

ART. 10. Jede Partei kommt für ihre eigenen Kosten auf. Die Kosten für das Vergleichsverfahren werden von den Parteien zu gleichen Teilen getragen.

ART. 11. Während der Dauer des Vergleichsverfahrens enthalten sich die vertragschliessenden Teile jeder Massnahme, die auf die Annahme der Vorschläge des ständigen Vergleichsrates nachteilig zuwirken könnte.

ART. 12. Der vorliegende Vertrag soll ratifiziert werden. Die Ratifikationsurkunden sollen sobald als möglich in Bern ausgetauscht werden.

Der Vertrag gilt für die Dauer von zehn Jahren, gerechnet vom Austausch der Ratifikationsurkunden an. Wird er nicht sechs Monate vor Ablauf dieses Zeitraumes gekündigt, so bleibt er für einen weitem Zeitraum von fünf Jahren in Kraft und so fort für je einen Zeitraum von fünf Jahren.

Zu Urkund dessen haben die Bevollmächtigten den gegenwärtigen Vertrag unterzeichnet und ihm ihre Siegel beigeschrieben.

Ausgefertigt, in doppelter Urschrift, zu Wien, am elften Oktober 1924.

C. D. Bourcart  
Dr. A. Grünberger

ART. 10. Each Party shall bear its own expenses and half the expenses of the procedure of conciliation.

ART. 11. During the procedure of conciliation the Contracting Parties shall abstain from all measures which might prejudicially affect the acceptance of the proposals of the Permanent Conciliation Commission.

ART. 12. The present Treaty shall be ratified. The instruments of ratification shall be exchanged at Berne as soon as possible.

The Treaty is concluded for a period of ten years from the date of the exchange of ratifications. Unless denounced six months before the expiration of this period, it shall remain in force for a further period of five years, and similarly thereafter.

In faith whereof the Plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

Done in duplicate at Vienna, on the eleventh day of October, 1924.

C. D. Bourcart  
Dr. A. Grünberger

#### FINAL PROTOCOL

Die zu diesem Zwecke gehörig bevollmächtigten Unterzeichneten erklären in dem Augenblicke, wo sie zur Unterzeichnung des am heutigen Tage abgeschlossenen Vergleichsvertrages schreiten, dass darüber Einverständnis besteht, dass die vertragschliessenden Teile unter sich bis zum Ablaufe des Vergleichsvertrages durch die Bestimmungen des Artikels 36 des Statutes

At the moment of signing the Treaty of Conciliation concluded this day the undersigned, duly authorised to this effect, declare that it is understood that the Contracting Parties shall, until the expiration of the Treaty of Conciliation, remain bound as between themselves by the terms of Article 36 of the Statute of the Permanent Court of International Justice, in the

des ständigen internationalen Gerichtshofes gebunden bleiben, auch für den Fall, dass die Verpflichtung, die sie durch den Beitritt zur fakultativen Bestimmung des genannten Statutes übernommen haben, in der Zwischenzeit für einen von ihnen zu gelten aufhören sollte.

Wien, am 11. Oktober 1924.

C. D. Bourcart

Dr. A. Grünberger

event of the obligation which they incurred by their adherence to the optional provision of the said Statute being terminated for one of them in the interim.

Vienna, October 11, 1924.

C. D. Bourcart

Dr. A. Grünberger

#### PERMANENT COMMISSION OF CONCILIATION

*President appointed by both Parties*

SIR JAMES RENNELL RODD, British Ambassador to Italy. (*British.*)

*Member appointed by Austria*

VIKTOR KIENBÖCK, Minister of Finance of Austria. (*Austrian.*)

*Member appointed by Switzerland*

JOSEF RÄBER, Member of the Swiss Council of States. (*Swiss.*)

#### No. 31

#### SALVADOR-URUGUAY: TREATY OF ARBITRATION

Signed at Madrid November 7, 1924; ratifications exchanged April 25, 1928.

Original text communicated by the Legation of Uruguay at Washington, D. C.; English translation by a translator of the Secretariat of the League of Nations.

(*Translation*)

Los Gobiernos de las Repúblicas de El Salvador y Uruguay, con el propósito de confirmar en un nuevo acto la invariable amistad y alta consideración en las relaciones entre ambas naciones hermanas, han acordado celebrar un tratado de arbitraje, que siga los admirables principios que inspiraron el proyecto de convención de 1885 entre el Salvador y el Uruguay y sea más amplio y completo que el firmado en 1902 por los mismos países y compatible con el Estatuto de la Corte Permanente de Justicia Internacional instituida por la Sociedad de las Naciones, de que son también miembros ambos.

The Governments of the Republics of El Salvador and Uruguay, with intent to confirm in a new instrument the unalterable friendship and high consideration that exist in the relations between the two sister nations, have agreed to conclude a treaty of arbitration, which shall follow the admirable principles embodied in the draft convention of 1885 between Salvador and Uruguay and shall be more comprehensive and complete than the treaty signed in 1902 by those countries, and compatible with the Statute of the Permanent Court of International Justice, whereof both are likewise members.

Para ese efecto, el Presidente de la República de El Salvador ha designado a Su Señoría Don Ismael Gomez Fuentes, Encargado de Negocios en España.

El Presidente de la República O. del Uruguay a Su Excelencia Don Benjamín Fernandez y Medina, Enviado Extraordinario y Ministro Plenipotenciario en España.

Quienes después de haber canjeado sus Plenos Poderes, hallados en buena y debida forma, han convenido en lo siguiente:

ARTÍCULO 1. Las Altas Partes Contratantes se obligan a someter a juicio arbitral todas las controversias de cualquier naturaleza que por cualquier causa surgieren entre ellas, siempre que no puedan ser resueltas por negociación directa.

ART. 2. No pueden renovarse en virtud de este tratado las cuestiones que hayan sido objeto de arreglos definitivos o decisiones anteriores entre ambas Altas Partes. En tal caso el arbitraje se limitará exclusivamente a las cuestiones que se susciten sobre validez, interpretación y cumplimiento de dichos arreglos o decisiones.

ART. 3. Para la decisión de las cuestiones que en cumplimiento de este tratado se sometieren a arbitraje, las funciones de Arbitro serán encomendadas con preferencia a un Jefe de Estado de una de las naciones americanas o Presidente de una Corte o Tribunal Superior de Justicia americano y en su defecto a un Tribunal formado por jueces y peritos salvadoreños uruguayos o americanos.

ART. 4. En cada caso particular, las Altas Partes Contratantes firmarán un compromiso especial, que determine el arbitro nombrado, el

For this purpose, the President of the Republic of El Salvador has appointed Señor Don Ismael Gomez Fuentes, Chargé d'Affaires in Spain, and

The President of the Oriental Republic of Uruguay has appointed His Excellency Don Benjamín Fernandez y Medina, Envoy Extraordinary and Minister Plenipotentiary in Spain,

Who, having exchanged their full powers, found in good and due form, have agreed upon the following:

ARTICLE 1. The High Contracting Parties bind themselves to submit to arbitration all disputes of whatever nature that may arise between them for any cause whatever and that cannot be settled by direct negotiation.

ART. 2. No question that has already been dealt with by definitive arrangements or decisions between the two Contracting Parties may be reopened in virtue of this treaty. In such case the arbitration shall be limited exclusively to questions arising as to the validity, interpretation, and execution of such arrangements or decisions.

ART. 3. For the settlement of questions submitted to arbitration in accordance with the present treaty, the duties of arbitrator shall be intrusted preferably to the Chief of State of one of the American nations or to the President of a High Court or Tribunal of Justice of one of those nations, and, failing such, to a Court composed of judges and experts of Salvador and Uruguay or of other American nations.

ART. 4. In each separate case the High Contracting Parties shall sign a special agreement, which shall specify the arbitrator ap-

alcance de los poderes de éste, la materia del litigio, los plazos, gastos y procedimientos que se fijaren.

ART. 5. A no ser que se trate de un caso de denagación de justicia, el artículo 1 de este tratado no será aplicable a las cuestiones que se suscitaren entre un ciudadano de una de las Altas Partes Contratantes y el otro Estado cuando los jueces o tribunales de este último Estado tenga, según su legislación, competencia para juzgar la referida cuestión. Sin embargo, podrá ser motivo de arbitraje el determinar si se trata o no de un caso de denegación de justicia.

ART. 6. El presente tratado permanecerá en vigor durante diez años contados desde la fecha del canje de sus ratificaciones.

En caso de que, doce meses antes de cumplirse dicho término ninguna de las Altas Partes Contratantes hubiese declarado su intención de hacer cesar los efectos del presente tratado, continuará éste siendo obligatorio hasta un año después de que una u otra de las Altas Partes Signatarias lo hubiese denunciado.

ART. 7. Este tratado será ratificado por las Altas Partes Contratantes según sus respectivas leyes y se canjearán las ratificaciones en Montevideo o en Madrid en el más breve plazo posible.

En testimonio de lo cual los Plenipotenciarios arriba indicados firman el presente tratado y lo sellan con sus respectivos sellos.

Hecho en dos ejemplares, en castellano, en Madrid a siete de noviembre de mil novecientos veinticuatro.

Ismael Gomez Fuentes  
Benjamin Fernandez y Medina

pointed, the extent of his powers, the subject of the dispute, and such periods, costs, and procedure as may be fixed.

ART. 5. Except in the case of a denial of justice, Article 1 of this treaty shall not be applicable to questions arising between a citizen of one of the High Contracting Parties and the other State, if the judges or courts of the latter State are competent under its laws to deal with the question at issue. Nevertheless, the question whether a case of denial of justice has occurred may be made the subject of arbitration.

ART. 6. The present treaty shall remain in force for ten years from the date of the exchange of ratifications.

If, twelve months before the expiry of this term, neither of the High Contracting Parties has announced its intention of terminating the effects of the present treaty, it shall remain binding until one year after either of the High Contracting Parties has denounced it.

ART. 7. This treaty shall be ratified by the High Contracting Parties in accordance with their respective laws, and the ratifications shall be exchanged at Montevideo or at Madrid as soon as possible.

In witness whereof the above-named Plenipotentiaries sign the present treaty and seal it with their seals.

Done in duplicate, in Spanish, at Madrid this seventh day of November one thousand nine hundred and twenty-four.

Ismael Gomez Fuentes  
Benjamin Fernandez y Medina

## No. 32

ARGENTINA-SWITZERLAND: TREATY OF  
ARBITRATION

Signed at Buenos Aires November 17, 1924; ratifications not yet exchanged.

Original text <sup>1</sup> from *Message du Conseil fédéral suisse*, No. 1938, February 6, 1925;  
English translation by a translator of the Secretariat of the League of Nations.

(Translation)

Le Conseil Fédéral Suisse et le Président de la Nation Argentine, Animés du désir de resserrer les liens de bonne amitié existant entre la Suisse et l'Argentine et de résoudre autant que possible, par voie d'arbitrage, les différends qui viendraient à s'élever entre les deux pays, ont résolu de conclure à cet effet un traité et ont désigné leurs Plénipotentiaires, savoir:

Le Conseil Fédéral Suisse:

Son Excellence Monsieur le Docteur Charles Egger, son Envoyé Extraordinaire et Ministre Plénipotentiaire près le Gouvernement Argentin;

Le Président de la Nation Argentine:

Son Excellence Monsieur le Docteur Angel Gallardo, son Ministre Secrétaire d'Etat au Département des Affaires Etrangères et du Culte;

Lesquels, après s'être fait connaître leurs pleins pouvoirs reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE I. Les Hautes Parties Contractantes s'engagent à soumettre à l'arbitrage, à la demande d'une d'entre elles, tous les différends, de quelque nature qu'ils soient, qui s'élèveraient entre elles et n'auraient pu être résolus par la voie diplomatique dans un délai raisonnable.

The Spanish text is also authentic.

The Swiss Federal Council and the President of the Argentine Republic, being desirous of strengthening the bonds of good friendship that exist between Switzerland and the Argentine, and of settling by arbitration, as far as possible, such disputes as may arise between the two countries, have resolved to conclude a treaty for that purpose, and have appointed as their Plenipotentiaries, that is to say:

The Swiss Federal Council:

His Excellency Doctor Charles Egger, its Envoy Extraordinary and Minister Plenipotentiary to the Argentine Government;

The President of the Argentine Republic:

His Excellency Doctor Angel Gallardo, his Minister Secretary of State for the Department of Foreign Affairs and Public Worship;

Who, having exchanged their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE I. The High Contracting Parties undertake to submit to arbitration, at the request of either one of them, all disputes of whatever nature that may arise between them and that it may not have been possible to settle through the diplomatic channel within a reasonable time.

Cependant, chacune des Hautes Parties Contractantes demeurera libre de décliner l'arbitrage pour tout litige qui, à son avis, porterait sur des questions affectant des principes de sa Constitution.

ART. II. Sauf convention contraire, le tribunal arbitral se composera de cinq membres, choisis sur la liste des membres de la Cour permanente d'arbitrage instituée par la Convention de La Haye pour le règlement pacifique des conflits internationaux du 18 octobre 1907.

Dans chaque cas particulier, les Parties Contractantes nommeront chacune un arbitre à leur gré et désigneront, d'un commun accord, les trois autres et, parmi ces derniers, le surarbitre.

Les membres du tribunal désignés en commun ne devront, ni être des ressortissants des Parties Contractantes, ni être domiciliés sur leur territoire ou se trouver à leur service.

Si les membres à désigner en commun ou le surarbitre ne sont pas nommés dans les six mois à compter de la demande d'arbitrage formulée par l'une des Parties, les nominations seront effectuées conformément à la procédure prévue par l'article 45 de la Convention de La Haye pour le règlement pacifique des conflits internationaux, du 18 octobre 1907.

En cas de décès ou de retraite de membres du tribunal, il sera pourvu à leur remplacement selon le mode fixé pour leur nomination.

ART. III. Les Hautes Parties Contractantes établiront chaque fois un compromis déterminant nettement l'objet du différend, le siège et les compétences particulières du tribunal, l'indemnité à allouer aux arbitres, le montant de

Nevertheless, each of the High Contracting Parties shall remain free to decline arbitration of any dispute which, in its opinion, concerns questions affecting principles of its constitution.

ART. II. Unless it is otherwise agreed, the court of arbitration shall be composed of five members, selected from the list of members of the Permanent Court of Arbitration set up by the Hague Convention of October 18, 1907, for the pacific settlement of international disputes.

In each separate case, each of the Contracting Parties shall appoint an arbitrator of its own choice, and the Parties shall jointly appoint the other three arbitrators, one of whom shall be the president of the court.

The jointly-appointed members of the court may not be nationals of the Contracting Parties, nor domiciled in their territory, nor employed in their service.

If the members to be appointed jointly, or the president, be not appointed within six months of a request for arbitration being made by one of the Parties, the appointments shall be made according to the procedure laid down in Article 45 of the Hague Convention of October 18, 1907, for the pacific settlement of international disputes.

In the event of the death or resignation of members of the court, their places shall be filled by the method prescribed for their appointment.

ART. III. The High Contracting Parties shall in each case establish an arbitration agreement clearly specifying the subject of the dispute, the seat and the special powers of the court, the allowance to be made to the arbitrators, the

la somme que chaque Partie sera tenue de déposer à titre d'avance pour les frais ainsi que tous autres points jugés nécessaires.

Le compromis sera établi par échange de notes entre les Parties Contractantes. Il sera interprété en tous points par le tribunal arbitral.

Si le compromis n'est pas établi dans un délai de six mois à compter de la demande d'arbitrage formulée par l'une des Parties, le tribunal arbitral constitué conformément à l'Article II jugera sur la base des prétentions qui lui seront soumises. Dans ce dernier cas et sauf convention contraire, le tribunal siègera à La Haye.

ART. IV. Le tribunal rendra sa sentence à la majorité des voix.

La sentence arbitrale indiquera, s'il y a lieu, les délais dans lesquels elle devra être exécutée.

ART. V. Les Hautes Parties Contractantes s'engagent à exécuter de bonne foi la sentence rendue par le tribunal.

Elles s'engagent, en outre, à renoncer, durant le cours de la procédure d'arbitrage, à toute mesure pouvant avoir une répercussion préjudiciable sur l'exécution de la sentence.

ART. VI. Sous réserve des dispositions contraires du présent traité, la procédure d'arbitrage sera régie par les articles 51 à 85 de la Convention de La Haye pour le règlement pacifique des conflits internationaux, du 18 octobre 1907.

ART. VII. Le présent traité sera ratifié. Les instruments de ratification en seront échangés, à Buenos-Aires, dans le plus bref délai possible.

amount of the advance that each Party shall be required to pay into court on account of costs, and any other points that may be thought necessary.

The arbitration agreement shall be concluded by an exchange of notes between the Contracting Parties. It shall be interpreted in all points by the court of arbitration.

If the arbitration agreement is not concluded within six months of a request for arbitration being made by one of the Parties, the court of arbitration constituted as provided in Article II shall decide on the basis of the claims presented to it. In this latter case, unless it is otherwise agreed, the court shall sit at the Hague.

ART. IV. The court shall pronounce its award by a majority vote.

The arbitral award shall prescribe, if need be, the time-limits within which it must be carried out.

ART. V. The High Contracting Parties undertake to carry out in good faith the award rendered by the court.

They further undertake to abstain, during the arbitration proceedings, from all measures which might have a prejudicial influence on the execution of the award.

ART. VI. Except as otherwise provided in the present treaty, the arbitration proceedings shall be governed by Articles 51 to 85 of the Hague Convention of October 18, 1907, for the pacific settlement of international disputes.

ART. VII. The present treaty shall be ratified, and the instruments of ratification shall be exchanged at Buenos Aires as soon as possible.



Le traité est conclu pour la durée de dix ans à compter de l'échange des ratifications. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il demeurera en vigueur pour une nouvelle période de dix ans, et ainsi de suite.

En foi de quoi, les Plénipotentiaires ci-dessus nommés ont signé le présent traité et y ont apposé leurs sceaux.

Fait en double original à Buenos-Aires, Capitale de la République Argentine, le dix-septième jour du mois de novembre de l'année 1924.

Egger  
Angel Gallardo

The treaty is concluded for a period of ten years reckoned from the exchange of ratifications. Unless denounced six months before the expiry of that period, it shall remain in force for a further period of ten years, and similarly thereafter.

In witness whereof the above-named Plenipotentiaries have signed the present treaty and have thereto affixed their seals.

Done in duplicate at Buenos Aires, capital of the Argentine Republic, this seventeenth day of the month of November in the year 1924.

Egger  
Angel Gallardo

### No. 33

#### JAPAN-SWITZERLAND: TREATY OF ARBITRATION

Signed at Tokio December 26, 1924; ratifications exchanged December 19, 1925.

Original text from Switzerland, *Recueil des Lois fédérales*, 1926, No. 4;<sup>1</sup> English translation from League of Nations, *Treaty Series*, XLIII, 395-397.

#### (Translation)

Le Conseil Fédéral Suisse et Sa Majesté l'Empereur du Japon, animés du désir de resserrer les liens d'amitié qui unissent la Suisse et le Japon et de résoudre, autant que possible, par la voie d'un règlement judiciaire les litiges qui viendraient à s'élever entre les deux Pays et seraient susceptibles d'un tel règlement,

s'inspirant de l'article XIII du Pacte de la Société des Nations, ont résolu de conclure à cet effet un Traité et ont désigné leurs Plénipotentiaires, savoir:

le Conseil fédéral suisse:

The Swiss Federal Council and His Majesty the Emperor of Japan, being desirous of strengthening still further the ties of friendship which unite Switzerland and Japan and of settling as far as possible by judicial means any disputes arising between the two countries which are capable of such a settlement, and acting in the spirit of Article 13 of the Covenant of the League of Nations, have resolved to conclude a Treaty for this purpose, and have appointed as their Plenipotentiaries:

The Swiss Federal Council:

<sup>1</sup> See also League of Nations, *Treaty Series*, XLIII, 394.

M. Alfred Brunner, Chargé d'Affaires de Suisse au Japon, et  
Sa Majesté l'Empereur du Japon:

le Baron Kijuro Shidehara, Jusammi, décoré de la première classe de l'Ordre Impérial du Soleil-Levant, Ministre des Affaires Etrangères,

lesquels, après s'être fait connaître leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Les litiges d'ordre juridique qui viendraient à s'élever entre les hautes Parties contractantes et n'auraient pu être résolus par la voie diplomatique ou par tout autre moyen de conciliation seront soumis à un règlement judiciaire.

Cependant, chacune des hautes Parties contractantes demeurera libre de soustraire à un règlement judiciaire tout litige qui, à son avis, mettrait en cause ses intérêts vitaux, son indépendance ou son honneur ou toucherait aux intérêts de tierces Puissances.

ART. 2. Les litiges susceptibles de règlement judiciaire au sens du présent Traité seront soumis à la Cour permanente de Justice internationale.

Les hautes Parties contractantes peuvent convenir, dans chaque cas particulier, de porter le litige devant la Chambre de procédure sommaire de la Cour permanente de Justice internationale.

Elles peuvent également convenir de soumettre le litige à un tribunal arbitral constitué d'un commun accord. Dans ce dernier cas, et sauf convention contraire, les dispositions du présent Traité s'appliqueront par analogie à la procédure arbitrale.

M. Alfred Brunner, Swiss Chargé d'Affaires in Japan;

His Majesty the Emperor of Japan:

Baron Kijuro Shidehara, Jusammi, Imperial Order of the First Class of the Rising Sun, Minister for Foreign Affairs;

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1. All disputes of a legal nature which may arise between the High Contracting Parties and which it may not have been possible to settle by diplomacy or by any other means of conciliation shall be submitted for judicial settlement.

Either of the High Contracting Parties may, however, decline to submit for judicial settlement any dispute in which it considers its vital interests, independence or honour to be at stake or which it deems may affect the interests of third Powers.

ART. 2. Disputes which are capable of judicial settlement within the meaning of the present Treaty shall be submitted to the Permanent Court of International Justice.

The High Contracting Parties may agree in any individual case to bring the dispute before the Chamber for summary procedure of the Permanent Court of International Justice.

They may also agree to submit the dispute to an arbitral tribunal constituted by joint agreement. In the latter case, and subject to any arrangement to the contrary, the provisions of the present Treaty shall apply *mutatis mutandis* to the arbitral procedure.

ART. 3. Dans chaque cas particulier, les hautes Parties contractantes, avant de s'adresser à la Cour permanente de Justice internationale, établiront, en s'en tenant aux dispositions du Statut et du Règlement de la Cour permanente de Justice internationale, un compromis spécial déterminant nettement l'objet du litige, les compétences particulières qui pourraient être dévolues à la Cour, ainsi que toutes autres conditions arrêtées entre elles.

Le compromis est établi par échange de notes entre les Gouvernements des hautes Parties contractantes.

Il est interprété en tous points par la Cour permanente de Justice internationale.

ART. 4. L'arrêt rendu par la Cour permanente de Justice internationale doit être exécuté de bonne foi par les Parties.

Les hautes Parties contractantes s'abstiendront autant que possible, durant le cours de la procédure judiciaire, de toute mesure pouvant avoir une répercussion préjudiciable sur l'exécution de l'arrêt à rendre par la Cour permanente de Justice internationale.

ART. 5. Le présent Traité sera ratifié. Les instruments de ratification en seront échangés à Tokio dans le plus bref délai possible.

Le Traité est conclu pour la durée de cinq ans à compter de l'échange des ratifications. S'il n'est pas dénoncé six mois avant l'expiration de ce terme, il demeurera en vigueur jusqu'à l'expiration d'un délai d'un an compté à partir du moment où l'une quelconque des hautes Parties contractantes aura notifié à l'autre son intention d'y mettre fin.

En foi de quoi, les Plénipoten-

ART. 3. In every case the High Contracting Parties shall, before applying to the Permanent Court of International Justice, draw up, in conformity with the Statute and Rules of the Permanent Court of International Justice, a special agreement (*compromis*) stating clearly the subject of dispute, the particular competence that might devolve upon the Court, and any other conditions fixed between themselves.

The agreement shall be constituted by an exchange of notes between the Governments of the High Contracting Parties.

All points contained therein shall be interpreted by the Permanent Court of International Justice.

ART. 4. The judgment given by the Permanent Court of International Justice shall be executed by the Parties in good faith.

During the judicial procedure the High Contracting Parties shall as far as possible abstain from all measures which might prejudicially affect the execution of the judgment to be given by the Permanent Court of International Justice.

ART. 5. The present Treaty shall be ratified. The instruments of ratification shall be exchanged at Tokio as soon as possible.

The Treaty is concluded for a period of five years from the date of the exchange of ratifications. Unless denounced six months before the expiration of this period, it shall remain in force for one year from the date on which either of the Contracting Parties notifies the other of its intention to terminate it.

In faith whereof the Plenipo-

tiaries ont signé le présent Traité et l'ont revêtu de leurs sceaux.

Fait à Tokio, en double exemplaire, le 26 décembre 1924.

A. Brunner  
K. Shidehara

tentiaries have signed the present Treaty and have thereto affixed their seals.

Done in duplicate at Tokio, December 26, 1924.

A. Brunner  
K. Shidehara

### No. 34

## ESTONIA-FINLAND-LATVIA-POLAND: TREATY OF CONCILIATION AND ARBITRATION

Signed at Helsingfors January 17, 1925; ratifications deposited: Estonia and Finland, August 12, 1925; Latvia, September 7, 1925; Poland, October 14, 1925.

Original text from Finland, *Överenskommelser med främmande makter*, 1925, No. 24;<sup>1</sup> English translation from League of Nations, *Treaty Series*, XXXVIII, 359-369.

### (Translation)

Les Républiques de Finlande, d'Esthonie, de Lettonie et de Pologne décidées à développer les relations amicales qui existent entre Elles et décidées à donner, dans leurs rapports réciproques, la plus large application au principe du règlement des différends internationaux par des moyens pacifiques, ont résolu de conclure une Convention de conciliation et d'arbitrage. A cet effet ont été nommés Plénipotentiaires:

par le Président de la République de Finlande:

Monsieur Hj. J. Procopé, Ministre des Affaires Etrangères,

par le Président de la République d'Esthonie:

Monsieur K. Pusta, Ministre des Affaires Etrangères,

par le Président de la République de Lettonie:

Monsieur Z. Meierovics, Ministre des Affaires Etrangères, et

par le Président de la République de Pologne:

The Republics of Esthonia, Finland, Latvia, and Poland, being desirous of promoting the friendly relations existing between them, and having decided to give in their mutual relations the widest possible application to the principle of the settlement of international disputes by pacific means, have decided to conclude a Conciliation and Arbitration Convention. For this purpose they have appointed as their Plenipotentiaries:

The President of the Esthonian Republic:

M. K. Pusta, Minister for Foreign Affairs;

The President of the Finnish Republic:

M. Hj. J. Procopé, Minister for Foreign Affairs;

The President of the Latvian Republic:

M. S. Meierovics, Minister for Foreign Affairs;

The President of the Polish Republic:

See also League of Nations, *Treaty Series*, XXXVIII, 358.

Monsieur le Comte A. Skrzynski, Ministre des Affaires Etrangères, lesquels Plénipotentiaires, dûment autorisés, sont convenus des articles suivants:

ARTICLE 1<sup>er</sup>. Les Hautes Parties Contractantes désirant appliquer dans leurs rapports mutuels les principes dominants du Pacte de la Société des Nations, développés par le Protocole de Genève adopté le 2 octobre 1924, sont résolues à se servir des moyens y prévus pour le règlement pacifique des conflits qui pourraient surgir entre Elles.

ART. 2. Les Hautes Parties Contractantes s'engagent à soumettre à une procédure de conciliation ou à l'arbitrage tous les différends qui pourraient s'élever entre Elles et n'auraient pu être réglés par la voie diplomatique dans un délai raisonnable. Toutefois l'engagement précité ne se rapportera ni aux questions qui de par leur nature juridique relèvent uniquement de la législation interne de la Partie en cause ni aux différends concernant le Statut territorial des Hautes Parties Contractantes.

Tout différend susceptible d'être réglé de la manière indiquée ci-dessus sera soumis à une procédure de conciliation, à moins que les Parties en litige ne conviennent de le soumettre immédiatement à l'arbitrage.

Au cas où le rapport élaboré par la Commission de conciliation instituée en vertu de l'article 6 de la présente Convention n'aurait pas été accepté par toutes les Parties en litige, le différend sera soumis à l'arbitrage, si l'une des Parties le demande.

ART. 3. S'il s'agit d'un différend qui, à teneur de la législation interne de l'une des Hautes Parties

Count A. Skrzynski, Minister for Foreign Affairs;

being duly authorised thereto, have agreed upon the following articles:

ARTICLE 1. The High Contracting Parties, being desirous of applying in their mutual relations the leading principles laid down in the Covenant of the League of Nations and further elaborated in the Geneva Protocol adopted on October 2, 1924, have decided to use the means provided therein for the pacific settlement of any disputes which might arise between them.

ART. 2. The High Contracting Parties undertake to submit to a procedure of conciliation or of arbitration any disputes arising between them which it has not been possible to settle within a reasonable time through diplomatic channels. This undertaking shall not, however, apply to questions the legal nature of which makes them subject solely to the domestic legislation of the Party concerned, or to any disputes regarding the territorial status of the High Contracting Parties.

Any dispute capable of being settled in the manner set forth above shall be submitted to a conciliation procedure, unless the Parties to the dispute agree to submit it immediately to arbitration.

Should the report drawn up by the Conciliation Commission, set up in virtue of Article 6 of the present Convention, not have been accepted by all the Parties to the dispute, the said dispute shall be submitted to arbitration if one of the Parties so requests.

ART. 3. If, in accordance with the domestic legislation of one of the High Contracting Parties, the

Contractantes, relève de la compétence des tribunaux, les tribunaux administratifs y compris, la Partie défenderesse pourra s'opposer à ce qu'il soit soumis à l'arbitrage ou à une procédure de conciliation avant qu'un jugement définitif ait été rendu par l'autorité judiciaire compétente.

ART. 4. Dans le cas où le recours à une procédure arbitrale serait prévu dans une convention antérieurement conclue dont ne font partie que des Etats signataires de la présente Convention, il est convenu que tout différend auquel la convention antérieure s'appliquerait, sera soumis par les Etats entre lesquels le conflit est survenu à une commission de conciliation ou à l'arbitrage, conformément à la présente Convention.

ART. 5. Il est entendu que les obligations assumées par les Hautes Parties Contractantes en vertu de la présente Convention n'entraient aucunement leur faculté de soumettre, d'un commun accord, un différend qui aurait pu surgir entre Elles, à la Cour permanente de Justice internationale.

ART. 6. Les Hautes Parties Contractantes établiront dans les trois mois du dépôt de la dernière ratification de la présente Convention une Commission permanente de conciliation composée de quatre membres, à raison d'un membre nommé par chacune d'Elles, et d'un président désigné d'un commun accord parmi les ressortissants d'un Etat tiers. A défaut d'entente entre les Parties, le Président sera nommé, à la requête de l'une d'Elles, par le Président de la Cour permanente de Justice internationale.

matter in dispute comes within the jurisdiction of the courts, including administrative courts, the defending Party may decline to have the dispute submitted to arbitration or to a procedure of conciliation until such time as a final judgment has been given by the competent judicial authority.

ART. 4. Should recourse to arbitral procedure be provided for by a convention previously concluded, to which only States signatories of the present Convention are Parties, it shall be agreed that any dispute to which this previous convention would apply shall, in accordance with the present Convention, be submitted to a Conciliation or Arbitration Commission by the States between which the dispute has arisen.

ART. 5. It is agreed that the obligations assumed by the High Contracting Parties in virtue of the present Convention shall not in any way restrict their right to submit by common consent any difference which might arise between them to the Permanent Court of International Justice.

ART. 6. Within three months from the date on which the last ratification of the present Convention shall have been deposited, the High Contracting Parties shall establish a Permanent Conciliation Commission composed of four members, each of the Parties appointing one member, and of a Chairman chosen by common agreement from among the nationals of a State not Party to the present Convention. Failing agreement between the Parties, the Chairman shall, at the request of one of the Parties, be appointed by the President of the Permanent Court of International Justice.

La Partie désirant soumettre un différend à la procédure de conciliation s'adressera au Président de la Commission permanente. Celui-ci portera immédiatement cette notification à la connaissance de la Partie ou des Parties adverses et invitera les Parties en litige à compléter le nombre des membres nommés par Elles par des membres supplémentaires *ad hoc*, à raison d'un membre pour chaque Partie en litige, ces derniers membres devant être choisis parmi les ressortissants d'un Etat tiers, et nommés dans un délai ne dépassant pas six semaines, à compter du jour de l'invitation. Au cas où la nomination n'aurait pas eu lieu dans le délai prescrit, les membres supplémentaires seront désignés par le Président.

Les membres permanents de la Commission nommés par les Parties en litige ainsi que les membres supplémentaires seront convoqués sans retard par le Président et constitueront ensemble avec lui la Commission de conciliation pour le règlement du différend soumis à la procédure de conciliation.

ART. 7. Toute commission de conciliation connaît de sa compétence d'après les articles précédents.

Si l'un des Etats entre lesquels un conflit est surgi l'avait soumis à une procédure de conciliation et si la Partie adverse, faisant valoir la compétence de la Cour permanente de Justice internationale, cette compétence étant, dans le cas donné, obligatoire pour les Parties, lui soumettait le même différend, l'examen de celui-ci sera suspendu jusqu'à ce que la Cour ait statué sur sa compétence.

La requête ainsi adressée à la Cour par l'une des Parties suspendra les mesures prévues à l'arti-

Any Party desirous of submitting a dispute to a conciliation procedure shall apply to the Chairman of the Permanent Commission. The latter shall immediately notify the opposing Party or Parties, and shall invite each Party to the dispute to appoint, in addition to the member already appointed by it, another member selected for the purpose from among the nationals of a State not Party to the dispute within a time-limit of six weeks from the day on which the invitation was issued. Should these appointments not have been made within the prescribed time-limit, the additional members shall be appointed by the Chairman.

The permanent members of the Commission appointed by the Parties to the dispute, as well as the additional members, shall be convened without delay by the Chairman and shall, together with the latter, constitute the Conciliation Commission for the settlement of the dispute submitted to the conciliation procedure.

ART. 7. The competence of each Conciliation Commission shall be governed by the provisions of the preceding articles.

If one of the States between which a dispute has arisen has submitted it to a procedure of conciliation, and if the opposing Party, pleading the competence of the Permanent Court of International Justice on the grounds that reference of the case to that Court is compulsory for the Parties, has referred the same dispute to the Permanent Court, consideration of the case shall be suspended until the Court shall have determined the questions of competence.

If an application has thus been

cle 6, jusqu'à ce que la Cour ait statué sur sa compétence.

ART. 8. Les membres de la Commission permanente seront nommés pour trois ans. Sauf accord contraire entre les Hautes Parties Contractantes, ils ne pourront pas être révoqués pendant la durée de leur mandat. En cas de décès ou de retraite de l'un d'eux il devra être pourvu à son remplacement pour le reste de la durée de son mandat, si possible dans les deux mois qui suivront, et, en tout cas, aussitôt qu'un différend aura été soumis à la Commission.

ART. 9. Si, à l'expiration du mandat d'un membre de la Commission permanente, il n'est pas pourvu à son remplacement, son mandat est censé renouvelé pour une période de trois ans; toutefois, sur la demande de l'une des Parties, les fonctions du Président doivent cesser à la fin de son mandat.

Un membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part à l'examen du différend jusqu'à ce que la procédure soit terminée, nonobstant le fait que son remplaçant ait été désigné.

ART. 10. Dans un délai de quinze jours, à dater de celui où l'un des Etats contractants aura porté un différend devant la Commission, chacune des Parties pourra, pour l'examen du litige visé, remplacer le membre permanent désigné par Elle par une personne possédant une compétence spéciale dans la matière.

submitted to the Permanent Court by one of the Parties, the procedure provided for in Article 6 shall be suspended until the Court has given a decision in regard to its competence.

ART. 8. The members of the Permanent Commission shall be appointed for three years. Unless there is an agreement to the contrary between the High Contracting Parties, they may not be relieved of their functions during their term of office. In case of death or retirement of one of the members, the vacancy shall be filled for the remainder of that member's term of office, if possible within two months, and in any case as soon as a dispute shall have been submitted to the Commission.

ART. 9. If, on the expiration of his term of office, one of the members of the Permanent Commission has not been replaced, his term of office shall be regarded as renewed for a further period of three years; if, however, one of the Parties so requests, the Chairman shall cease to hold office at the end of his appointed term.

Any member whose term of office expires while conciliation proceedings are in progress shall continue to take part in the settlement of the dispute until the proceedings are closed, notwithstanding the fact that his successor has already been appointed.

ART. 10. Each Party shall have the right, within 15 days as from the day on which one of the Contracting Parties has referred a dispute to the Commission, to replace for the purpose of dealing with the dispute the permanent member it has appointed by a person possessing special competence in the matter.



La Partie qui voudrait user de ce droit, en avertira immédiatement la Partie adverse; dans ce cas, celle-ci a la faculté d'user du même droit, dans un délai de quinze jours à partir de celui où l'avertissement lui est parvenu.

ART. 11. La Commission se réunit dans l'endroit que les Parties désignent d'un commun accord ou, à défaut d'accord, au siège de la Société des Nations.

La Commission pourra, si elle le juge nécessaire, se réunir dans un autre endroit.

ART. 12. Les Parties en litige fourniront à la Commission toutes les informations utiles et lui faciliteront, à tous égards, l'accomplissement de sa tâche.

La Commission pourra, le cas échéant, demander au Secrétaire général de la Société des Nations l'assistance du Secrétariat, si la Commission en a besoin pour ses travaux.

ART. 13. La procédure devant la Commission est contradictoire.

A défaut d'une décision contraire prise à l'unanimité, les dispositions contenues aux titres III et IV de la Convention de La Haye pour le règlement pacifique des conflits internationaux, du 18 octobre 1907, seront appliquées à la procédure devant la Commission.

Les débats ne sont publics que si la Commission, d'accord avec les Parties, en décide ainsi.

ART. 14. Les décisions de la Commission sont prises à la majorité. Chaque membre dispose d'une voix, celle du Président étant décisive en cas de partage. La Commission ne peut prendre des décisions portant sur le fond du

Any Party desirous of availing itself of this right shall immediately notify the opposing Party; in such case the latter shall be entitled to take similar steps within 15 days after receiving such notification.

ART. 11. The Commission shall meet at a place appointed by agreement between the Parties or, failing such agreement, at the seat of the League of Nations.

The Commission may, for special reasons, meet at any other place.

ART. 12. The Parties to the dispute shall furnish the Commission with all useful information and shall afford it every assistance in the execution of its duties.

If this is necessary in the interests of its work, the Commission may ask the Secretary-General of the League of Nations for the assistance of the Secretariat.

ART. 13. In proceedings before the Commission all Parties shall be heard.

Unless a decision to the contrary has been unanimously adopted, the provisions contained in Chapters III and IV of the Hague Convention for the Pacific Settlement of International Disputes of October 18, 1907, shall be applied in proceedings before the Commission.

The proceedings shall be public only if the Commission so decides and the Parties agree.

ART. 14. The decisions of the Commission shall be taken by a majority vote. Each member shall have one vote. In case of equal votes the Chairman shall have the casting vote. The Commission shall not take decisions on the sub-

différend que si tous les membres sont présents.

ART. 15. La Commission fera un rapport sur le différend qui lui a été soumis. Le rapport comportera un projet de règlement du différend, si les circonstances y donnent lieu et si trois au moins des membres de la Commission, le Président étant considéré comme membre, se mettent d'accord sur un tel projet.

L'avis motivé des membres restés en minorité sera consigné dans le rapport.

ART. 16. Sous réserve du droit des Parties en litige de prolonger ce délai, la Commission doit achever ses travaux dans un délai de six mois, à compter du jour de la première réunion de la Commission.

Le temps durant lequel les travaux de la Commission sont suspendus selon les dispositions de l'article 7 n'est pas compris dans le délai susmentionné.

ART. 17. Le rapport de la Commission est signé par le Président et porté sans délai à la connaissance des Parties en litige et du Secrétaire général de la Société des Nations.

ART. 18. Les Parties dont le différend a été soumis à la Commission, porteront à Leur connaissance réciproque, ainsi qu'à la connaissance du Président de la Commission permanente, dans un délai raisonnable, si Elles acceptent les constatations du rapport et les propositions qu'il renferme.

Il appartient aux Parties en litige de décider, d'un commun accord, si le rapport de la Commission doit être publié immédiatement. A défaut d'un accord, la Commission pourra, en cas de raisons spéciales, procéder à la publication du rapport.

stance of the dispute unless all members are present.

ART. 15. The Commission shall draw up a report on the dispute referred to it. The report shall contain a proposal for the settlement of the dispute if circumstances permit and if at least three of the members of the Commission — the Chairman being regarded as a member — agree upon such proposal.

The reasoned opinion of the members who are in the minority shall be recorded in the report.

ART. 16. Subject to the right of the Parties to the dispute to extend this time-limit, the Commission shall complete its work within six months as from the day on which the first meeting of the Commission takes place. Any time during which the work of the Commission is suspended in accordance with the provisions of Article 7 shall not be included in the above-mentioned time-limit.

ART. 17. The report of the Commission shall be signed by the Chairman and shall forthwith be communicated to the Parties to the dispute and to the Secretary-General of the League of Nations.

ART. 18. The Parties whose dispute has been referred to the Commission shall within reasonable time inform each other, as well as the Chairman of the Permanent Commission, whether they accept the findings of the report and the settlement proposed therein.

The Parties to the dispute shall decide, in agreement with one another, whether the Commission's report shall be published immediately. Failing such agreement the Commission may, for special reasons, decide to publish the report.

ART. 19. Lorsque, en vertu des dispositions de l'art. 2, un différend sera soumis à l'arbitrage, le Tribunal arbitral sera établi par l'accord des Parties.

A défaut de constitution du Tribunal par l'accord des Parties, il sera procédé de la manière suivante:

Chaque Partie nommera deux arbitres dont l'un doit être pris sur la liste des membres de la Cour permanente d'arbitrage et choisi à l'exclusion de ses propres nationaux. Les arbitres ainsi désignés choisiront ensemble le Président du Tribunal. En cas de partage des voix, le choix du Président est confié au Président de la Cour permanente de Justice internationale.

ART. 20. Lorsqu'il y aura lieu à un arbitrage entre les Parties en litige, Elles établiront, dans un délai de trois mois au plus tard, un compromis spécial concernant l'objet du litige ainsi que les modalités de la procédure. A défaut de clauses compromissoires contraires, Elles se conformeront pour tout ce qui concerne la procédure arbitrale aux dispositions établies par la Convention signée à La Haye le 18 octobre 1907 pour le règlement pacifique des conflits internationaux y compris les articles 53 et 54 et tenant compte de l'article 83 de ladite Convention.

ART. 21. La sentence arbitrale est obligatoire. Si, toutefois, la sentence établissait qu'une décision d'une instance judiciaire ou de toute autre autorité relevant de l'une des Hautes Parties Contractantes se trouve entièrement ou partiellement en opposition avec le droit international, et si le droit constitutionnel de cette Partie ne

ART. 19. If in virtue of the provisions of Article 2 a dispute is submitted to arbitration, the Court of Arbitration shall be established by agreement between the Parties.

If the Court of Arbitration is not constituted by agreement between the Parties, the following procedure shall be followed:

Each Party shall appoint two arbitrators, one of whom must be a member of the Permanent Court of Arbitration and must not be a national of the Party concerned. The arbitrators thus appointed shall together elect the President of the Court. In case of equal votes, the duty of appointing a President shall devolve upon the President of the Permanent Court of International Justice.

ART. 20. Should a dispute between the Parties involve recourse to arbitration, the Parties shall, within three months, draw up a special agreement to submit the matter to arbitration, specifying the subject of the dispute and the methods of procedure. In the absence of any compromissorial clauses to the contrary, they shall conform, as regards the arbitral procedure, to the provisions laid down in the Convention for the Pacific Settlement of International Disputes signed at the Hague on October 18, 1907, including Articles 53 and 54, and taking into account Article 83 of the said Convention.

ART. 21. The arbitral award shall be binding. If, however, the award should lay down that a decision by a Court of Justice or by any other authority of one of the High Contracting Parties was wholly or partly incompatible with international law, and if the constitutional law of that Party does not allow of the complete or par-

permettait pas ou ne permettait qu'imparfaitement d'effacer par voie administrative les conséquences de la décision dont il s'agit, il sera accordé à la Partie lésée une satisfaction équitable d'un autre ordre.

ART. 22. Les Parties s'abstiendront, durant le cours de la procédure de conciliation ou d'arbitrage, de toute mesure pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission ou sur l'exécution de la sentence.

ART. 23. Chacune des Parties indemniserà les membres de la Commission ainsi que les arbitres nommés par Elle ou désignés, faute de nomination, par le Président, conformément à l'article 6. L'indemnité du Président sera fournie par les Parties en litige en proportion égale.

Les Parties doivent chercher à s'entendre pour que les indemnités soient fixées d'après les mêmes principes.

Chaque Partie supportera les frais de procédure encourus par Elle, ceux déclarés communs par la Commission ou le Tribunal seront supportés par les Parties en proportion égale.

ART. 24. Les dispositions de la présente Convention seront applicables même si les différends qui viendraient à s'élever avaient leur origine dans des faits antérieurs à sa conclusion.

ART. 25. Il est entendu que la présente Convention n'apportera aucune modification aux obligations des Etats signataires fondées sur le Protocole pour le règlement pa-

tial<sup>1</sup> cancellation by administrative measures of the effects of the said decision, the injured Party shall be granted equitable compensation of another kind.

ART. 22. In the course of the conciliation or arbitration procedure, the Parties shall refrain from taking any measures which might compromise the acceptance of the proposal of the Commission or the execution of the award.

ART. 23. Each Party shall pay the allowances of the members of the Commission or of the arbitrators appointed by it, or, in the absence of such appointment, nominated by the Chairman in accordance with Article 6. The Chairman's allowances shall be paid by all the Parties to the dispute in equal shares.

The Parties shall endeavour to arrange that the allowances shall be fixed in accordance with uniform principles.

Each Party shall bear the costs of procedure which it has incurred; those which the Commission or the Court have declared to be joint costs shall be borne by the Parties in equal shares.

ART. 24. The provisions of the present Convention shall be applicable even to disputes originating in facts existing before the conclusion of this Convention.

ART. 25. It shall be understood that the present Convention shall not in any way modify the obligations assumed by the Signatory States in connection with the Proto-

<sup>1</sup> The meaning is rather 'does not allow, or only partially allows.' See the French text.

cifique des différends internationaux, adopté à Genève le 2 octobre 1924.

ART. 26. Tout différend relatif à l'interprétation de la présente Convention sera soumis à la Cour permanente de Justice internationale.

ART. 27. La présente Convention sera ratifiée et les ratifications seront déposées à Helsinki (Helsingfors) aussitôt que faire se pourra. Elle entrera en vigueur immédiatement après le dépôt des ratifications et aura une durée de trois années à dater du dépôt des ratifications accompli par tous les Etats signataires. Si elle n'a pas été dénoncée six mois au moins avant l'expiration de ce délai, elle restera en vigueur pendant une nouvelle période de trois ans et sera ainsi de suite censée renouvelée chaque fois pour trois ans, sauf dénonciation six mois au moins avant l'expiration de la précédente période de trois ans.

Nonobstant la dénonciation par l'une des Hautes Parties Contractantes la Convention demeurera en vigueur en ce qui concerne les Parties qui ne l'auront pas dénoncée.

En foi de quoi les Plénipotentiaires respectifs ont signé la présente Convention et y ont apposé leurs cachets.

Fait à Helsinki (Helsingfors), en quatre originaux, le 17 janvier, de l'an 1925.

Hj. J. Procopé  
K. R. Pusta  
Z. A. Meierovics  
Al. Skrzynski

col for the Pacific Settlement of International Disputes adopted at Geneva on October 2, 1924.

ART. 26. Any dispute regarding the interpretation of the present Convention shall be submitted to the Permanent Court of International Justice.

ART. 27. The present Convention shall be ratified and the ratifications shall be deposited at Helsinki (Helsingfors), as soon as possible. It shall enter into force as soon as the instruments of ratification have been deposited and shall remain in force for three years as from the date on which the ratifications of all the Signatory States have been deposited. Unless denounced within six months before the expiration of that period, it shall remain in force for a further period of three years and shall thereafter be regarded as renewed for successive periods of three years, unless denounced within six months before the expiration of the preceding period of three years.

Notwithstanding denunciation by one of the High Contracting Parties, the Convention shall remain in force in respect of those Parties which have not denounced it.

In faith whereof the respective Plenipotentiaries have signed the present Convention and have thereto affixed their seals.

Done at Helsinki (Helsingfors) in four original copies on January 17, 1925.

Z. A. Meierovics  
K. R. Pusta  
Hj. J. Procopé  
Al. Skrzynski

## ADDITIONAL PROTOCOL

Les Plénipotentiaires nommés par le Président de la République de Finlande et le Président de la République d'Esthonie, en signant la Convention de conciliation et d'arbitrage entre la Finlande, l'Esthonie, le Lettonie et la Pologne, constatent par le présent Protocole que les obligations assumées par la Finlande et l'Esthonie en vertu de ladite Convention ne modifient en rien les déclarations par lesquelles ces Etats ont reconnu comme obligatoire, de plein droit et sans convention spéciale, la juridiction de la Cour permanente de Justice internationale, conformément à l'article 36, paragraphe 2, du Statut de la Cour.

Fait à Helsinki (Helsingfors), en quatre originaux, le 17 janvier, de l'an 1925.

Hj. J. Procopé  
K. R. Pusta

The Plenipotentiaries appointed by the President of the Republic of Esthonia and by the President of the Republic of Finland, declare in signing the Conciliation and Arbitration Convention between Esthonia, Finland, Latvia and Poland, that the obligations undertaken by Esthonia and Finland in virtue of the said Convention do not modify in any way the declarations by which those States have recognised as obligatory *ipso facto* and without special convention the jurisdiction of the Permanent Court of International Justice in conformity with Article 36 paragraph 2 of the Statute of the Court.

Done at Helsinki (Helsingfors), in four copies, on January 17, 1925.

K. R. Pusta  
Hj. J. Procopé

## PERMANENT COMMISSION OF CONCILIATION

(Appointed July 19, 1926)

*President appointed by both Parties*

MINÉITCIRO ADATCI, Japanese Ambassador to Belgium. (*Japanese.*)

*Member appointed by Estonia*

OTTO STRANDMAN, former President of the Council of Ministers of Estonia. (*Estonian.*)

*Member appointed by Finland*

K. J. STAHLBERG, former President of Finland. (*Finnish.*)

*Member appointed by Latvia*

ARVED BERG, former Minister of Industry of Latvia. (*Latvian.*)

*Member appointed by Poland*

WASLOW MAKOWSKI, Professor at the University of Warsaw. (*Polish.*)

*Four Additional and Non-Permanent Members*

One to be appointed by each Party to a dispute. (*Non-Nationals.*)

## No. 35

POLAND-SWITZERLAND: TREATY OF CONCILIATION  
AND ARBITRATION

Signed at Berne March 7, 1925; ratifications exchanged June 11, 1926.

Original text from Poland, *Dziennik Ustaw*, 1926, No. 66;<sup>1</sup> English translation from League of Nations, *Treaty Series*, I., 263-271.

(Translation)

Le Président de la République de Pologne et le Conseil Fédéral Suisse

animés du désir de développer les relations amicales qui unissent les deux Pays,

décidés à donner, dans leurs rapports réciproques, une large application aux principes dont s'inspire la Société des Nations,

ont résolu de conclure un traité de conciliation et d'arbitrage et ont nommé à cet effet leurs Plénipotentiaires, savoir:

Le Président de la République de Pologne:

Monsieur Jan Modzelewski, Envoyé extraordinaire et Ministre plénipotentiaire de Pologne en Suisse,

Monsieur Julian Makowski, Docteur en Droit, Chef de Division au Ministère des Affaires Étrangères;

Le Conseil fédéral Suisse:

Monsieur Giuseppe Motta, Conseiller Fédéral, Chef du Département Politique Fédéral,

lesquels, après s'être fait connaître leurs pleins pouvoirs, reconnus en bonne et due forme, ont convenu des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Les Parties contractantes s'engagent à soumettre à la procédure de conciliation ou à la procédure d'arbitrage tous les différends qui pourraient s'élever

The President of the Polish Republic, and the Swiss Federal Council, being desirous of further improving the friendly relations which unite the two countries, and having decided, in their mutual relations, to give wide application to the principles by which the League of Nations is inspired, have resolved to conclude a treaty of conciliation and arbitration, and have for that purpose appointed as their Plenipotentiaries:

The President of the Polish Republic:

M. Jan Modzelewski, Envoy Extraordinary and Minister Plenipotentiary of Poland in Switzerland,

M. Julian Makowski, Doctor of Laws, Chief of Division in the Ministry of Foreign Affairs;

The Swiss Federal Council:

M. Giuseppe Motta, Federal Councillor, Head of the Federal Political Department;

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions.

ARTICLE 1. The Contracting Parties undertake to submit to the procedure of conciliation or to that of arbitration all disputes which may arise between them and which

<sup>1</sup> See also League of Nations, *Treaty Series*, I., 262.

entre elles et n'auraient pu être réglées par la voie diplomatique dans un délai raisonnable.

Toutefois, cet engagement ne s'appliquera, ni aux questions que le droit international laisse à la compétence exclusive des États, ni aux différends pour la solution desquels une procédure spéciale est ou sera prévue par d'autres accords entre les Parties contractantes.

Il est entendu que les contestations qui pourraient surgir au sujet des réserves énoncées à l'alinéa qui précède seront tranchées conformément à l'article 19 du présent Traité.

Tout différend susceptible d'être réglé de la manière indiquée ci-dessus sera soumis à la procédure de conciliation, à moins que les Parties ne conviennent de le soumettre immédiatement à l'arbitrage.

Au cas, où le rapport élaboré par la Commission de conciliation instituée par l'article 3 du présent Traité n'aurait pas été accepté par les deux Parties, le différend sera soumis à l'arbitrage, si l'une des Parties le demande.

ART. 2. S'il s'agit d'un différend qui, à teneur de la législation interne de l'une des Parties, relève de la compétence des tribunaux, y compris les tribunaux administratifs, la Partie défenderesse pourra s'opposer à ce qu'il, soit soumis à une procédure de conciliation ou d'arbitrage avant qu'un jugement définitif ait été rendu par l'autorité judiciaire compétente.

La demande de conciliation devra, dans ce cas, être formée une année au plus tard à compter du jugement définitif.

ART. 3. Dans les six mois qui suivront l'échange des ratifications

it may not have been possible to settle within a reasonable time through the diplomatic channel.

This undertaking shall not, however, apply either to questions which, according to international law, come within the exclusive competence of individual States, or to disputes for the solution of which a special procedure is or may be provided by other agreements between the Contracting Parties.

It is agreed that disputes which may arise in regard to the reservations made in the preceding paragraph shall be settled in accordance with Article 19 of the present Treaty.

Any dispute which can be settled in the manner indicated above shall be submitted to the procedure of conciliation, unless the Parties agree to submit it forthwith to arbitration.

Should a report drawn up by the Conciliation Commission constituted under Article 3 of the present Treaty not be accepted by both Parties, the dispute shall, at the request of either Party, be submitted to arbitration.

ART. 2. In the case of a dispute which, according to the municipal law of one of the Parties, comes within the jurisdiction of the Courts, including administrative tribunals, the defendant Party may oppose the submission of the dispute to a procedure of conciliation or arbitration until a final judgment has been given by the competent judicial authority.

In this case, the request for conciliation procedure must be made within a year at most from the date of such judgment.

ART. 3. Within six months after the exchange of the ratifications of



du présent Traité, les Parties contractantes institueront une Commission permanente de conciliation, composée de cinq membres.

Les Parties nommeront chacune un membre à leur gré et désigneront les trois autres d'un commun accord. Ces trois membres ne devront, ni être des ressortissants des Parties contractantes, ni avoir leur domicile sur leur territoire ou se trouver à leur service.

Le Président de la Commission sera nommé, d'un commun accord, parmi les membres désignés en commun. A défaut d'entente entre les Parties, il sera désigné, à la requête des Parties, par le Président des États-Unis d'Amérique, s'il y consent.

Les membres de la Commission seront nommés pour trois ans. Sauf accord contraire entre les Parties, les membres désignés en commun ne pourront pas être révoqués pendant la durée de leur mandat.

ART. 4. En cas de décès ou de retraite de l'un des membres de la Commission de conciliation, il devra être pourvu à son remplacement pour le reste de la durée de son mandat, si possible, dans les trois mois qui suivront, et, en tout cas, aussitôt qu'un différend aura été soumis à la Commission.

Au cas, où l'un des membres de la Commission de conciliation désignés en commun par les Parties contractantes serait momentanément empêché de prendre part aux travaux de la Commission par suite de maladie ou de toute autre circonstance, les Parties s'entendront pour désigner un suppléant, qui siégera temporairement à sa place. Si la désignation de ce suppléant n'intervient pas dans un délai de trois mois, à compter de la vacance

the present Treaty, the Contracting Parties shall set up a permanent Conciliation Commission composed of five members.

Each Contracting Party shall nominate one member of its own choosing, the other three being appointed by joint agreement. The latter may not be nationals of the Contracting States or be domiciled in their territory or employed in their service.

The President of the Commission shall be appointed by joint agreement from among the jointly-selected members. Failing agreement between the Parties, he shall be appointed, at the request of the Parties, by the President of the United States of America, if the latter will consent to do so.

The members of the Commission shall be appointed for three years. The appointment of the jointly-selected members shall not be revoked during the term of their mandate unless both Contracting Parties decide otherwise.

ART. 4. In the event of the death or resignation of one of the members of the Conciliation Commission, arrangements shall be made to replace him for the remainder of his mandate; such arrangements shall be made within three months if possible, or in any case immediately a dispute is submitted to the Commission.

Should any member of the Conciliation Commission jointly appointed by the Contracting Parties be temporarily unable to take part in the Commission's work through illness or for any other reason, the Parties shall jointly appoint a substitute, who will sit temporarily in his place. If such substitute is not appointed within three months from the time when the temporary vacancy occurs, the procedure fol-

temporaire du siège, il sera procédé conformément à l'article 5 du présent Traité.

Si, à l'expiration du mandat d'un membre de la Commission, il n'est pas pourvu à son remplacement, son mandat est censé renouvelé pour une période de trois ans; les Parties se réservent, toutefois, de transférer, à l'expiration du terme de trois ans, les fonctions du Président à un autre des membres de la Commission désignés en commun.

Un membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part à l'examen du différend jusqu'à ce que la procédure soit terminée, nonobstant le fait que son remplaçant aurait été désigné.

ART. 5. Si la désignation des membres de la Commission de conciliation qui sont à désigner en commun n'intervient pas dans le délai prévu de six mois ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, il sera procédé aux nominations conformément à l'article 45 de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 6. Dans un délai de quinze jours à partir de la date, où l'une des Parties contractantes aura porté un différend devant la Commission de conciliation, chacune des Parties pourra, pour l'examen de ce différend, remplacer le membre permanent désigné par elle par une personne possédant une compétence spéciale dans la matière.

La Partie qui voudrait user de ce droit en avertira immédiatement l'autre Partie; celle-ci aura, dans ce cas, la faculté d'user du même droit dans un délai de quinze jours

lowed shall be that laid down in Article 5 of the present Treaty.

If, on the expiration of the mandate of a member of the Commission, no steps are taken to replace him, his mandate shall be deemed to be renewed for a further period of three years. The Parties shall, however, reserve the right, on the expiration of the period of three years, to transfer the office of President to another of the jointly-appointed members of the Commission.

A member whose mandate expires in the course of a procedure shall continue to take part in the examination of the dispute until the procedure is completed, even if his successor has been appointed.

ART. 5. If the appointment of the members of the Conciliation Commission who are to be selected jointly does not take place within the specified period of six months, or, in the case of replacements, within three months from the time when the vacancy occurs, the appointments shall be made as provided in Article 45 of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 6. Within fifteen days from the date when one of the Contracting Parties refers a dispute to the Conciliation Commission, either Party may, for the examination of the dispute, replace the permanent member of its own choosing by a person possessing special competence in the matter which forms the subject of the dispute.

The Party which wishes to avail itself of this right shall immediately notify the other Party; the latter shall be entitled to avail it-

à partir de la date où l'avertissement lui sera parvenu.

Chaque Partie se réserve, cependant, de nommer immédiatement un suppléant pour remplacer temporairement le membre permanent désigné par elle qui, par suite de maladie ou de toute autre circonstance, se trouverait momentanément empêché de prendre part aux travaux de la Commission.

ART. 7. La Commission de conciliation aura pour tâche de faciliter la solution du différend en éclaircissant, par un examen impartial et consciencieux, les questions de fait et en formulant des propositions en vue du règlement du litige, conformément aux dispositions de l'article 12 du présent Traité.

La Commission sera saisie sur requête adressée à son Président par l'une des Parties contractantes. Notification de cette requête sera faite, en même temps, à la Partie adverse par la Partie qui demandera l'ouverture de la procédure de conciliation.

ART. 8. La Commission de conciliation se réunira, sauf accord contraire, au lieu désigné par son Président.

ART. 9. La procédure devant la Commission de conciliation sera contradictoire.

La Commission réglera elle-même la procédure, en tenant compte, sauf décision contraire prise à l'unanimité, des dispositions contenues au Titre III de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

Les délibérations de la Commission auront lieu à huis clos, à moins que la Commission, d'accord avec les Parties, n'en décide autrement.

self of the same right within fifteen days from the date on which it receives the notification.

Nevertheless, each Party reserves the right to appoint forthwith a substitute to replace temporarily the permanent member of its own choosing if, through illness or for any other reason, the latter is temporarily unable to take part in the work of the Commission.

ART. 7. The task of the Conciliation Commission shall be to further the settlement of the dispute by an impartial and conscientious examination of the facts and by formulating proposals with a view to settling the dispute in accordance with the provisions of Article 12 of the present Treaty.

The Commission shall be informed by means of an application addressed to its President by one of the Contracting Parties. This application shall be notified at the same time to the opposing Party by the Party which is requesting the institution of the procedure of conciliation.

ART. 8. The Conciliation Commission shall meet at the place chosen by the President, unless some other arrangement is made.

ART. 9. In proceedings before the Conciliation Commission both Parties shall be heard.

The Commission shall itself draw up rules to govern its procedure, subject to the proviso that the regulations laid down in Part III of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes shall be applied unless the Commission unanimously agrees to depart from those regulations.

The Commission's proceedings shall be held in private unless the Commission, in agreement with the Parties, decides otherwise.

ART. 10. Sauf disposition contraire du présent Traité, les décisions de la Commission de conciliation seront prises à la majorité des voix. Chaque membre disposera d'une voix. Si tous les membres ne sont pas présents, la voix du Président sera décisive en cas de partage. La Commission ne pourra prendre des décisions portant sur le fond du différend que si tous les membres sont présents.

ART. 11. Les Parties contractantes fourniront à la Commission de conciliation toutes les informations utiles et lui faciliteront, à tous égards et dans toute la mesure du possible, l'accomplissement de sa tâche.

ART. 12. La Commission de conciliation présentera son rapport dans les six mois à compter du jour, où elle aura été saisie du différend, à moins que les Parties contractantes ne décident, d'un commun accord, de proroger ce délai.

Le rapport comportera un projet de règlement du différend toutes les fois que les circonstances le permettront.

L'avis motivé des membres restés en minorité sera consigné dans le rapport.

Un exemplaire du rapport, signé par le Président, sera soumis à chacune des Parties.

Le rapport de la Commission n'aura, ni en ce qui concerne l'exposé des faits, ni en ce qui concerne les considérations juridiques, le caractère d'une sentence arbitrale.

ART. 13. Les Parties porteront à leur connaissance réciproque, ainsi qu'à la connaissance du Président de la Commission de conciliation, dans un délai raisonnable, n'excédant toutefois pas la durée

ART. 10. The Conciliation Commission shall take its decisions by a majority vote of its members, except as otherwise provided in the present Treaty. Each member shall have one vote. If all the members are not present and the votes are equally divided, the President shall have a casting vote. The Commission may not take decisions relating to the main issue of the dispute unless all the members are present.

ART. 11. The Contracting Parties shall supply the Conciliation Commission with all useful information and shall in every respect give it the utmost possible assistance in the accomplishment of its task.

ART. 12. The Conciliation Commission shall submit its report within six months from the date on which it is informed of a dispute, unless the Contracting Parties jointly decide to extend this period.

Whenever circumstances permit, the report shall contain proposals for the settlement of the dispute.

The reasoned opinion of the members who are in the minority shall be recorded in the report.

A copy of the report, signed by the President, shall be submitted to each of the Parties.

The Commission's report shall not be in the nature of an arbitral award, either as regards the statement of the facts or as regards legal considerations.

ART. 13. The Parties shall inform each other, and also the President of the Conciliation Commission, within a reasonable period, and in any case within three months, whether they accept the

de trois mois, si elles acceptent les conclusions du rapport et les propositions qui y sont contenues.

Il appartiendra aux Parties de décider, d'un commun accord, si le rapport de la Commission et le procès verbal des débats peuvent être publiés avant l'expiration du délai dans lequel elles doivent se prononcer sur les propositions formulées dans le rapport ou, s'il s'agit d'un litige susceptible d'un règlement arbitral, avant que le tribunal arbitral ait statué définitivement.

ART. 14. Lorsque, en vertu des dispositions de l'article premier du présent Traité, un différend sera soumis à l'arbitrage, le tribunal arbitral sera établi par l'accord des Parties.

A défaut de constitution du tribunal par l'accord des Parties dans un délai de trois mois à compter du jour, où l'une des Parties aura adressé à l'autre la demande d'arbitrage, il sera procédé de la manière suivante:

Chaque Partie nommera deux arbitres, dont l'un devra être pris sur la liste des membres de la Cour permanente d'arbitrage et choisi à l'exclusion de ses propres nationaux. Les arbitres ainsi désignés choisiront ensemble le Président du tribunal. En cas de partage des voix, le choix du Président sera confié au Président des États-Unis d'Amérique, s'il y consent.

ART. 15. Lorsqu'il y aura lieu à un arbitrage entre elles, les Parties contractantes s'engagent à conclure, dans un délai de trois mois à compter du jour, où l'une des Parties aura adressé à l'autre la demande d'arbitrage, un compromis spécial concernant l'objet du litige, ainsi que les modalités de la procédure.

Si ce compromis ne peut être conclu dans le délai prévu, il y sera

conclusions of the report and the proposals contained therein.

The Parties shall jointly decide whether the Commission's report and the record of the discussions may be published before the expiration of the period in which they must give their decision on the proposals of the report, or, in a case for settlement by arbitration, before the arbitral tribunal has given its final award.

ART. 14. When a dispute is submitted to arbitration under Article 1 of the present Treaty, the arbitral tribunal shall be set up by agreement between the Parties.

Should the Parties fail to constitute the tribunal by agreement within three months from the date on which one of them has presented to the other a request for arbitration, the procedure to be adopted shall be as follows:

Each Party shall appoint two arbitrators, one of whom must be chosen from the list of members of the Permanent Court of Arbitration and must not be a national of the appointing State. The arbitrators so appointed shall elect the president of the tribunal. Should the votes be equally divided, the president shall be chosen by the President of the United States of America, if he will consent to do so.

ART. 15. When arbitration is to take place between them, the Contracting Parties undertake to conclude, within three months from the date on which one of them presents to the other the request for arbitration, a special agreement (*compromis*) regarding the subject of the dispute and the methods of procedure to be followed.

If the special agreement cannot be drawn up within the period pro-

obligatoirement suppléé conformément à la procédure prévue au Titre IV de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux, qui régira, dans ce cas, le recours à l'arbitrage.

ART. 16. La sentence arbitrale est obligatoire et doit être exécutée de bonne foi par les Parties.

Si, toutefois, la sentence établissait qu'une décision d'une instance judiciaire ou de toute autre autorité relevant de l'une des Parties contractantes se trouve entièrement ou partiellement en opposition avec le droit international, et si le droit constitutionnel de cette Partie ne permettait d'effacer qu'imparfaitement par voie administrative les conséquences de la décision dont il s'agit, il sera accordé à la Partie lésée une satisfaction équitable d'un autre ordre.

ART. 17. Pendant la durée effective de la procédure de conciliation ou d'arbitrage, les membres de la Commission permanente de conciliation désignés en commun et du tribunal arbitral recevront une indemnité dont le montant sera arrêté par les Parties contractantes.

Chaque Partie supportera ses propres frais et une part égale des frais de la Commission et du tribunal, y compris les indemnités prévues à l'alinéa premier.

ART. 18. Durant le cours de la procédure de conciliation et de la procédure arbitrale, les Parties contractantes s'abstiendront de toute mesure pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission de conciliation ou sur l'exécution de la sentence arbitrale.

vided, it shall be compulsory to take further action in accordance with the procedure provided in Part IV of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes, which shall in such cases govern the method of recourse to arbitration.

ART. 16. The arbitral award shall be binding and shall be executed in good faith by the Parties.

If, however, the award establishes the fact that a decision of a court of law or any other authority of one of the Contracting Parties is wholly or partly at variance with international law, and if the constitutional law of that Party does not enable the effects of the decision in question to be wholly nullified by administrative action, the aggrieved Party shall be accorded equitable satisfaction in some other form.

ART. 17. For the actual duration of the procedure of conciliation or arbitration, the members of the Permanent Conciliation Commission who are jointly appointed and the members of the arbitral tribunal shall receive an allowance to be fixed by arrangement between the Contracting Parties.

Each Party shall bear its own costs and half the costs of the Commission and tribunal, including the allowances referred to in the first paragraph.

ART. 18. During the procedure of conciliation or arbitration the Contracting Parties shall abstain from all measures which might prejudicially affect the acceptance of the proposals of the Conciliation Commission or the execution of the arbitral award.

ART. 19. Les contestations qui surgiraient au sujet de l'interprétation ou de l'exécution du présent Traité seront soumises directement à la Cour permanente de Justice internationale, par voie de simple requête.

ART. 20. Le présent Traité sera ratifié. Les instruments de ratification en seront échangés à Varsovie, dans le plus bref délai possible.

Le Traité entrera en vigueur le trentième jour après l'échange des ratifications et aura une durée de trois années. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il demeurera en vigueur pendant une nouvelle période de trois années, et ainsi de suite.

En foi de quoi, les Plénipotentiaires ont signé le présent Traité et y ont apposé leurs cachets.

Fait à Berne, en double exemplaire, le sept mars 1925.

J. Modzelewski  
Dr. J. Makowski  
Motta

ART. 19. Any disputes which may arise in regard to the interpretation or execution of the present Treaty shall be submitted direct to the Permanent Court of International Justice by simple application.

ART. 20. The present Treaty shall be ratified, and the instruments of ratification shall be exchanged at Warsaw as soon as possible.

The Treaty shall come into force on the thirtieth day after the exchange of ratifications, and shall remain valid for three years. Unless denounced six months before the expiration of that period, it shall remain in force for a further period of three years, and so on thereafter.

In faith whereof the Plenipotentiaries have signed the present Treaty and thereto affixed their seals.

Done in duplicate at Berne, March 7, 1925.

J. Modzelewski  
Dr. J. Makowski  
Motta

#### PERMANENT COMMISSION OF CONCILIATION

(Appointed January 11, 1927)

##### *President appointed by both Parties*

JONKHEER JOHN LOUDON, Dutch Minister to France. (*Dutch.*)

##### *Members appointed by both Parties*

BARON ALBERIC ROLIN, Professor at the University of Ghent. (*Belgian.*)

ARNOLD RAESTAD, former Minister for Foreign Affairs of Norway. (*Norwegian.*)

##### *Member appointed by Poland*

STANISLAUS WROBLEWSKI, Professor at the University of Cracow, President of the Supreme Court of State Control of Poland. (*Polish.*)

##### *Member appointed by Switzerland*

HANS PFYFFER D'ALTISHOFEN, former Swiss Minister to Poland. (*Swiss.*)

## No. 36

FINLAND-GERMANY: TREATY OF CONCILIATION  
AND ARBITRATION

Signed at Berlin March 14, 1925; ratifications exchanged January 27, 1926.<sup>1</sup>

Original text from Finland, *Överenskommelser med främmande makter*, 1926, No. 4;<sup>2</sup>  
English translation from League of Nations, *Treaty Series*, XLIII, 367-379.

## (Translation)

Das Deutsche Reich und die Republik Finnland, von dem Wunsche erfüllt, die Entwicklung des Verfahrens zur friedlichen Beilegung zwischenstaatlicher Streitigkeiten zu fördern, sind übereingekommen, einen allgemeinen Schiedsgerichts- und Vergleichsvertrag abzuschliessen.

Zu diesem Zwecke haben zu Bevollmächtigten ernannt

der Stellvertreter des deutschen Reichspräsidenten:

den Ministerialdirektor im Auswärtigen Amte, Herrn Dr. Friedrich Gaus,

der Präsident der Republik Finnland:

den ausserordentlichen Gesandten und bevollmächtigten Minister Finnlands in Berlin, Herrn Dr. Harri Holma,

die, nachdem sie ihre Vollmachten geprüft und in guter und gehöriger Form befunden haben, über folgende Bestimmungen übereingekommen sind:

ARTIKEL I. Die vertragschliessenden Teile verpflichten sich, alle

The German Reich and the Republic of Finland, being desirous of promoting the development of the procedure for the pacific settlement of international disputes, have agreed to conclude a general arbitration and conciliation convention, and have for this purpose appointed as their Plenipotentiaries:

The "Stellvertreter" of the President of the German Reich:

Dr. Friedrich Gaus, Head of Department at the Ministry of Foreign Affairs;

The President of the Republic of Finland:

Dr. Harri Holma, Envoy Extraordinary and Minister Plenipotentiary of Finland in Berlin;

Who, after having communicated to each other their full powers, found in good and due form, have agreed as follows:

ARTICLE I. The Contracting Parties undertake to submit all dis-

<sup>1</sup> On December 3, 1928, a protocol was signed between Germany and Finland abrogating Article 4 of this Treaty and stating that: "So long as the 'compromis' has not been determined in accordance with Art. 8 of the Convention disputes subject to arbitration may, at the request of one of the Parties, be brought directly before the Permanent Court of International Justice in accordance with its statutes, one month after notification to the other contracting party."

<sup>2</sup> See also League of Nations, *Treaty Series*, XLIII, 348. The Finnish and Swedish texts are also authentic.



Streitigkeiten irgendwelcher Art, die zwischen ihnen entstehen und nicht in angemessener Frist auf diplomatischem Wege geschlichtet werden können, nach Massgabe des gegenwärtigen Vertrags entweder einem Schiedsgerichtsverfahren oder einem Vergleichsverfahren zu unterwerfen.

Streitigkeiten, für deren Schlichtung die vertragschliessenden Teile durch andere zwischen ihnen bestehende Abmachungen an ein besonderes Verfahren gebunden sind, werden nach Massgabe der Bestimmungen dieser Abmachungen behandelt.

ART. 2. Dem Schiedsgerichtsverfahren werden auf Verlangen einer Partei, unter Vorbehalt der Bestimmungen der Artikel 3 und 4, diejenigen Streitigkeiten unterworfen, die betreffen

erstens: Bestand, Auslegung und Anwendung eines zwischen den beiden Parteien geschlossenen Staatsvertrags;

zweitens: irgendeine Frage des internationalen Rechts;

drittens: das Bestehen einer Tatsache, die, wenn sie erwiesen wird, die Verletzung einer zwischenstaatlichen Verpflichtung bedeutet;

viertens, Umfang und Art der Wiedergutmachung im Falle einer solchen Verletzung.

Bestehen zwischen den Parteien Meinungsverschiedenheiten darüber, ob eine Streitigkeit zu den vorstehend bezeichneten Arten gehört, so wird über diese Vorfrage im Schiedsgerichtsverfahren entschieden.

ART. 3. Bei Fragen, die gemäss den Landesgesetzen der Partei, gegen die ein Begehren geltend gemacht wird, von richterlichen Behörden, mit Einschluss der Verwaltungsgerichte, zu entscheiden sind, kann diese Partei verlangen,

disputes of any nature whatever which may arise between them, and which it has not been possible to settle within a reasonable period by diplomatic means, to be dealt with by arbitration or conciliation, as provided in the present Convention.

Disputes for the solution of which a special procedure has been laid down in other conventions in force between the Contracting Parties shall be settled in accordance with the provisions of such conventions.

ART. 2. At the request of one of the Parties, disputes regarding the following subjects shall, unless otherwise provided for in Articles 3 and 4, be submitted to arbitration:

First, the contents, interpretation and application of any treaty concluded between the two Parties;

Secondly, any point of international law;

Thirdly, the existence of any fact which, if established, would constitute a violation of an international engagement;

Fourthly, the extent and nature of the reparation due for such violation.

In case of disagreement as to whether the dispute falls under one of the above categories, this preliminary question shall be referred to arbitration.

ART. 3. In regard to questions which, under the national laws of the Party against which a demand has been formulated, are within the competence of judicial authorities, including administrative tribunals, the defendant Party may require,

dass die Streitigkeiten dem Schiedsgerichtsverfahren erst unterworfen werden, nachdem in dem Gerichtsverfahren eine endgültige Entscheidung gefällt worden ist, und dass die Anrufung des Schiedsgerichts spätestens sechs Monate nach dieser Entscheidung erfolge. Dies gilt nicht, wenn es sich um einen Fall von Rechtsverweigerung handelt und die gesetzlich vorgesehenen Beschwerdestellen angerufen worden sind.

Entsteht zwischen den Parteien eine Meinungsverschiedenheit über die Anwendung der vorstehenden Bestimmung, so wird darüber im Schiedsgerichtsverfahren entschieden.

ART. 4.<sup>1</sup> Erhebt eine Partei bei einer Streitigkeit der in Artikel 2 bezeichneten Arten die Einrede, dass es sich um eine Angelegenheit handle, die ihre Unabhängigkeit, die Unversehrtheit ihres Gebiets oder andere höchste Lebensinteressen betreffe, so kommt für die Streitigkeit, falls die andere Partei diese Behauptung als zutreffend anerkennt, nicht das Schiedsgerichts-, sondern das Vergleichsverfahren zur Anwendung. Wird dagegen die Behauptung von der anderen Partei nicht als zutreffend anerkannt, so ist darüber im Schiedsgerichtsverfahren zu entscheiden.

Anerkennt das Schiedsgericht die bezeichnete Einrede als begründet, so überweist es die Streitigkeit dem Vergleichsverfahren; sonst entscheidet es selbst darüber.

Eine Partei, welche die bezeichnete Einrede der Gegenpartei nicht als zutreffend anerkennt, kann sich gleichwohl ohne vorherige Herbeiführung einer schiedsgerichtlichen Entscheidung über die Einrede mit der Durchführung des Vergleichsverfahrens einverstanden

on the one hand, that the dispute shall not be submitted to arbitral award until a final decision has been pronounced by these judicial authorities and, on the other hand, that the matter shall be brought before the Tribunal not later than six months after the date of such decision. The above provisions shall not apply if justice has been refused and if the matter has been brought before the courts of appeal provided for by law.

In the case of disputes regarding the application of the preceding provision, the Arbitral Tribunal shall decide.

ART. 4. If, in a dispute coming under one of the categories mentioned in Article 2, one of the Parties pleads that the question at issue is one which affects its independence, the integrity of its territory or other vital interests of the highest importance, and if the opposing Party admits that the plea is well founded, the dispute shall not be subject to arbitration but to the procedure of conciliation. If, however, the plea is not recognised as well founded by the opposing Party, this point shall be settled by means of arbitration.

If the Tribunal recognises the validity of such pleas, it shall refer the dispute for settlement to the procedure of conciliation. If the contrary is the case, it shall give an award on the dispute itself.

A Party which does not recognise the validity of one of the pleas of exception put forward by the opposing Party may, nevertheless, without first having recourse to arbitration, agree to the application of the procedure of conciliation. It may, however, stipulate that, if the proposal for settlement

<sup>1</sup> Cf. p. 205, note 1.

erklären. Sie kann dabei jedoch den Vorbehalt machen, dass, wenn der Vergleichsvorschlag nicht von beiden Parteien angenommen wird, das Schiedsgericht zur Entscheidung über die Einrede und gegebenenfalls auch über die Streitigkeit selbst angerufen werden kann.

ART. 5. Das Schiedsgericht legt seinen Entscheidungen zugrunde  
erstens: die zwischen den Parteien geltenden Übereinkünfte allgemeiner oder besonderer Art und die sich daraus ergebenden Rechtsätze;

zweitens: das internationale Gewohnheitsrecht als Ausdruck einer allgemeinen, als Recht anerkannten Übung;

drittens: die allgemeinen von den Kulturstaaen anerkannten Rechtsgrundsätze.

Soweit im einzelnen Falle die vorstehend erwähnten Rechtsgrundlagen Lücken aufweisen, entscheidet das Schiedsgericht nach den Rechtsgrundsätzen, die nach seiner Ansicht die Regel des internationalen Rechts sein sollten. Es folgt dabei bewährter Lehre und Rechtsprechung.

Mit Zustimmung beider Parteien kann das Schiedsgericht seine Entscheidung, anstatt sie auf Rechtsgrundsätze zu stützen, nach billigem Ermessen treffen.

ART. 6. Sofern nicht die Parteien im einzelnen Fall eine entgegenstehende Vereinbarung treffen, wird das Schiedsgericht in folgender Weise bestellt.

Die Richter werden auf der Grundlage des Verzeichnisses der Mitglieder des durch das Haager Abkommen zur friedlichen Erledigung internationaler Streitfälle vom 18. Oktober 1907 geschaffenen Ständigen Schiedshofs im Haag gewählt.

Jede Partei ernennt einen Schieds-

by conciliation is not accepted by both Parties, the Tribunal shall be required to give a decision regarding the plea of exception and, if necessary, regarding the dispute itself.

ART. 5. The Tribunal shall apply:

First: the conventions in force between the Parties, whether general or special, and the principles of law arising therefrom;

Secondly: international custom as evidence of a general practice accepted as law;

Thirdly: the general principles of law recognised by civilised nations.

If, in a particular case, the legal bases mentioned above are inadequate, the Tribunal shall give an award in accordance with the principles of law which, in its opinion, should govern international law. For this purpose it shall be guided by decisions sanctioned by legal authorities and by jurisprudence.

If the Parties agree, the Tribunal may, instead of basing its decision on legal principles, give an award in accordance with considerations of equity.

ART. 6. Subject to special agreement to the contrary in each particular case, the Tribunal shall be constituted as follows:

The judges shall be chosen from the list of members of the Permanent Court of Arbitration established by the Hague Convention, dated October 18, 1907, for the Pacific Settlement of International Disputes.

Each Party shall appoint its own arbitrator. The Parties shall jointly nominate three other arbitrators;

richter nach freier Wahl. Gemeinsam berufen die Parteien drei weitere Richter und aus deren Mitte den Obmann. Sofern einer der gemeinsam berufenen Richter nach seiner Wahl die Staatsangehörigkeit einer der beiden Parteien erwirbt, auf deren Gebiete seinen Wohnsitz nimmt oder in deren Dienste tritt, kann jede Partei verlangen, dass er ersetzt werde. Streitigkeiten darüber, ob diese Voraussetzungen zutreffen, werden von den übrigen vier Richtern entschieden, wobei der ältere der gemeinsam berufenen Richter den Vorsitz führt und bei Stimmengleichheit eine doppelte Stimme hat.

Die Wahl der Richter erfolgt von neuem für jeden einzelnen Streitfall. Die vertragschliessenden Teile behalten sich jedoch vor, im gemeinsamen Einverständnis die Wahlen in der Weise vorzunehmen, dass für gewisse Arten von Streitfällen während eines bestimmten Zeitraums dieselben Richter dem Schiedsgericht angehören.

Mitglieder des Schiedsgerichts, die aus irgendeinem Grund ausscheiden, werden in der gleichen Weise ersetzt, wie sie berufen worden sind.

ART. 7. Die vertragschliessenden Teile werden in Ausführung des gegenwärtigen Vertrags in jedem Einzelfall eine besondere Schiedsordnung festsetzen. Darin werden der Streitgegenstand, die etwaigen besonderen Befugnisse des Gerichts, dessen Zusammensetzung und Sitz, die Höhe des von jeder Partei als Kostenvorschuss zu hinterlegenden Betrags, die hinsichtlich der Form und der Fristen des Verfahrens zu beobachtenden Regeln sowie die sonst notwendigen Einzelheiten bestimmt.

one of whom shall be the umpire. If, after having been appointed, one of the judges jointly elected acquires the nationality of one of the Parties, appoints his domicile in its territory or enters its service, either of the Parties may claim that he be replaced. Any disputes which may arise as to whether any one of these conditions exists shall be settled by the other four judges; the eldest of the judges jointly elected shall take the chair in these cases and, if the votes are equally divided, he shall give a casting vote.

For each individual dispute there shall be a fresh election of judges. The Contracting Parties, however, reserve the right to act in concert regarding these elections, so that, for a certain class of dispute arising within a fixed period, the same judges shall be seated on the Tribunal.

In case of the death of members of the Tribunal, or of their retirement for any reason whatever, they shall be replaced according to the manner determined for their appointment.

ART. 7. In each individual case the Contracting Parties shall, in pursuance of the present Treaty, draw up an agreement of reference (compromis), to determine the subject of the dispute, any special terms of reference which may be accorded to the Tribunal, its composition, the place where it shall meet, the total amount that each Party concerned shall be obliged to deposit in advance to cover expenses, the rules to be observed with regard to the form and time-limits of the proceedings, and any other detail that may be considered necessary.

Meinungsverschiedenheiten über die Bestimmungen der Schiedsordnung werden, vorbehaltlich des Artikel 8, vom Schiedsgericht entschieden.

ART. 8.<sup>1</sup> Kommt zwischen den Parteien nicht binnen sechs Monaten, nachdem die eine der anderen das Begehren nach schiedsgerichtlicher Austragung einer Streitigkeit mitgeteilt hat, die Schiedsordnung zustande, so kann jede Partei den in Artikel 14 vorgesehenen Ständigen Vergleichsrat zwecks Feststellung der Schiedsordnung anrufen. Dieser hat binnen zwei Monaten nach seiner Anrufung die Schiedsordnung festzusetzen, wobei der Streitgegenstand aus den Anträgen der Parteien ermittelt wird.

Es ist ebenso zu verfahren, wenn eine Partei den von ihr zu ernennenden Richter nicht bezeichnet hat oder wenn die Parteien in der Bezeichnung der gemeinsam zu berufenden Richter oder des Obmanns nicht einig sind.

Der Ständige Vergleichsrat ist ferner befugt, bis zur Bestellung des Schiedsgerichts über jede andere Streitigkeit zu entscheiden, die sich auf die Schiedsordnung bezieht.

ART. 9. Das Schiedsgericht trifft seine Entscheidungen mit einfacher Stimmenmehrheit. Die abweichende Ansicht eines in der Minderheit gebliebenen Mitglieds wird auf sein Verlangen festgestellt.

ART. 10. Der Schiedsspruch wird Angaben über die Art seiner Ausführung, insbesondere über die dabei zu beobachtenden Fristen enthalten.

Wird in einem Schiedsspruch festgestellt, dass eine von einem

Any disputes arising out of the terms of the agreement of reference shall, subject to the terms of Article 8, be referred to arbitration.

ART. 8. If the agreement of reference has not been determined within a period of six months after one Party concerned has notified the other of its intention to refer the dispute to arbitration, either Party may request the Permanent Board of Conciliation provided for under Article 14 to establish the agreement of reference. The Permanent Board of Conciliation shall, within two months after having been convened, settle the terms of the agreement of reference, the subject of the dispute being determined on the basis of the statements submitted by the Parties.

The same procedure shall apply when one Party has not nominated the arbitrator for whose appointment it is responsible, or when the Parties concerned cannot agree upon the choice of judges to be jointly appointed, or upon the umpire.

Pending the constitution of the Tribunal, the Permanent Board of Conciliation shall also be competent to give an award upon any other dispute arising out of the agreement of reference.

ART. 9. The award of the Tribunal shall be given by a majority vote. The opinion of any member of a minority of the Tribunal who dissents from the award shall be duly placed on record.

ART. 10. The arbitration award shall specify the manner in which it is to be carried out, especially as regards the time-limits to be observed.

If in an arbitration award it is proved that a decision or measure

<sup>1</sup> Cf. p. 205, note 1.

Gericht oder einer anderen Behörde einer Partei getroffene Entscheidung oder Verfügung ganz oder teilweise mit dem Völkerrecht in Widerspruch steht, können aber nach dem Verfassungsrechte dieser Partei die Folgen der Entscheidung oder Verfügung durch Verwaltungsmassnahmen nicht oder nicht vollständig beseitigt werden, so ist der verletzten Partei in dem Schiedsspruch auf andere Weise eine angemessene Genugtuung zuzuerkennen.

ART. 11. Unter Vorbehalt anderweitiger Abrede in der Schiedsordnung kann jede Partei bei dem Schiedsgerichte, das den Spruch erlassen hat, die Revision dieses Spruches beantragen. Der Antrag kann nur mit der Ermittlung einer Tatsache begründet werden, die einen entscheidenden Einfluss auf den Spruch auszuüben geeignet gewesen wäre und bei Schluss der Verhandlung dem Schiedsgerichte selbst und der Partei, welche die Revision beantragt hat, ohne ihr Verschulden unbekannt war.

Mitglieder des Schiedsgerichts, die aus irgendeinem Grunde für das Revisionsverfahren ausscheiden, werden in der gleichen Weise ersetzt, wie sie berufen worden sind.

Die Frist, innerhalb deren der im Absatz 1 vorgesehene Antrag gestellt werden kann, ist im Schiedsspruch zu bestimmen, sofern dies nicht in der Schiedsordnung geschehen ist.

ART. 12. Alle Streitigkeiten, die zwischen den Parteien über Auslegung und Ausführung des Schiedsspruchs entstehen sollten, unterliegen, vorbehaltlich anderweitiger Abrede, der Beurteilung des Schiedsgerichts, das den Spruch gefällt hat.

of a court of law or other authority of one of the Parties is wholly or in part contrary to international law, and if the constitutional law of that Party does not permit, or only partially permits, the consequences of the decision or measure in question to be annulled by administrative measures, the arbitration award shall give the injured Party equitable satisfaction of another kind.

ART. 11. Subject to any provision to the contrary in the agreement of reference, either Party may claim a revision of the award by the Tribunal which gave the award. This demand shall only be warranted by the discovery of a fact which exercises a decisive influence on the award and which, at the time of the close of the discussion in Court, was unknown to the Tribunal itself and to the Party demanding the revision, unless that Party ought to have been aware of it.

If, for any reason, any members of the Tribunal do not take part in the revision proceedings, substitutes for them shall be appointed in the manner determined for their own appointment.

The limit of time within which the demand provided for in the first paragraph may be presented shall be fixed in the arbitral award, unless it has already been fixed in the agreement of reference.

ART. 12. Any dispute arising between the Parties concerned as to the interpretation and execution of the award shall, in the absence of an agreement to the contrary, be submitted to the Tribunal which pronounced it. In the latter case

Dabei findet die Bestimmung des Artikel 11 Absatz 2 entsprechende Anwendung.

ART. 13. Alle Streitigkeiten, die nicht nach den vorhergehenden Artikeln dieses Vertrags dem Schiedsgerichtsverfahren unterworfen werden, sind auf Verlangen einer Partei im Vergleichsverfahren zu behandeln.

Behauptet die andere Partei, dass der im Vergleichsverfahren anhängig gemachte Streitfall vom Schiedsgerichte zu entscheiden sei, so entscheidet dieses zunächst über diese Vorfrage.

Die Regierungen der vertragschliessenden Teile können im gemeinsamen Einverständnis eine Streitigkeit, für die nach dem gegenwärtigen Verträge das Schiedsgericht angerufen werden kann, endgültig oder unter Vorbehalt der späteren Anrufung des Schiedsgerichts im Vergleichsverfahren behandeln lassen.

ART. 14. Für das Vergleichsverfahren wird ein Ständiger Vergleichsrat gebildet.

Der Ständige Vergleichsrat besteht aus fünf Mitgliedern. Die vertragschliessenden Teile ernennen, jeder für sich, nach freier Wahl je ein Mitglied und berufen die drei übrigen Mitglieder im gemeinsamen Einverständnis. Diese drei Mitglieder sollen nicht Angehörige der vertragschliessenden Staaten sein, noch sollen sie auf deren Gebiet ihren Wohnsitz haben oder in deren Dienst stehen. Aus ihrer Mitte wird der Vorsitzende durch die vertragschliessenden Teile gemeinsam bezeichnet.

Jedem vertragschliessenden Teile steht das Recht zu, jederzeit, sofern nicht ein Verfahren im Gang oder von einer Partei beantragt worden ist, das von ihm ernannte Mitglied abzuberufen und dessen Nachfolger

the provision contained in Article 11, paragraph 2, shall also apply.

ART. 13. Any dispute which, under the terms of the present Convention, cannot be referred to arbitration shall, at the request of one of the Parties concerned, be submitted to the procedure of conciliation.

If the opposing Party claims that a dispute, for which conciliation procedure has been initiated, should be settled by the Tribunal, the latter shall first pronounce judgment upon this prior question.

The Governments of the Contracting Parties shall be entitled to agree that a dispute which, under the terms of the present Convention, can be settled by arbitration shall be referred to the conciliation procedure, either without appeal or subject to appeal to the Tribunal.

ART. 14. A Permanent Board of Conciliation shall be constituted for the procedure of conciliation.

The Permanent Board of Conciliation shall consist of five members. The Contracting Parties shall appoint one member each of their own choice, and nominate the other three members by mutual agreement. These three members shall not be nationals of the Contracting Parties, nor shall they be domiciled on their territory, nor employed in their service. The Contracting Parties shall by mutual agreement elect the President from among these three Members.

Either of the Contracting Parties shall at any time, if no procedure is pending or if no procedure has been proposed by one of the Parties, have the right to recall the member appointed by it, and to appoint a successor. In the same circum-

zu bestimmen. Unter den gleichen Voraussetzungen steht es jedem der vertragschliessenden Teile auch frei, die Zustimmung zur Berufung jedes der drei gemeinsam berufenen Mitglieder zurückzuziehen. In diesem Falle muss unverzüglich zur gemeinsamen Berufung eines neuen Mitglieds geschritten werden.

Der Ständige Vergleichsrat wird im Laufe von sechs Monaten nach Austausch der Ratifikationsurkunden dieses Vertrags gebildet. Ausscheidende Mitglieder werden gemäss dem für die erstmalige Wahl massgebenden Verfahren so rasch als möglich ersetzt.

Wenn die Berufung der gemeinsam zu berufenden Mitglieder nicht innerhalb von sechs Monaten nach dem Austausch der Ratifikationsurkunden oder, im Falle der Ergänzung des Ständigen Vergleichsrats, nicht innerhalb von drei Monaten nach Ausscheiden eines Mitglieds stattgefunden hat, so finden die Bestimmungen des Artikel 45 Absatz 4 bis 6 des Haager Abkommens zur friedlichen Erledigung internationaler Streitfälle vom 18. Oktober 1907 auf die Wahl der Mitglieder sinngemäss Anwendung.

ART. 15. Der Ständige Vergleichsrat tritt in Wirksamkeit, sobald er von einer Partei angerufen wird. Diese richtet ihr Begehren gleichzeitig an den Vorsitzenden des Ständigen Vergleichsrats und an die andere Partei. Der Vorsitzende hat den Ständigen Vergleichsrat in kürzester Frist einzuberufen.

Die vertragschliessenden Teile verpflichten sich, in allen Fällen und in jeder Hinsicht die Arbeiten des Ständigen Vergleichsrats zu fördern und ihm insbesondere durch die zuständigen Behörden jede Rechtshilfe zu gewähren. Sie wer-

stances, either Contracting Party shall be entitled to withdraw its consent to the appointment [of any of the three members nominated jointly. In this case the necessary replacement shall be effected],<sup>1</sup> without delay, by joint nomination.

The Permanent Board of Conciliation shall be constituted in the course of the six months following the exchange of ratifications of the present Convention. Retiring members shall be replaced as soon as possible in the manner laid down for the first election.

If the nomination of the members to be appointed in common has not taken place within the six months following the exchange of ratifications or, in the case of a vacancy on the Permanent Board of Conciliation, within the three months dating from the retirement or death of a member, the provisions of Article 45, paragraphs 4 to 6, of the Hague Convention, dated October 18, 1907, for the Pacific Settlement of International Disputes, shall be applicable by analogy as regards the appointment of members.

ART. 15. The Permanent Board of Conciliation shall take action immediately a dispute has been referred to it by either of the Parties. Such Party shall communicate its request simultaneously to the chairman of the Permanent Board of Conciliation and to the other Party. The chairman shall summon the Permanent Board of Conciliation to meet at the earliest possible moment.

The Contracting Parties undertake in all cases and in all respects to further the work of the Permanent Board of Conciliation and in

<sup>1</sup> The words in brackets do not appear in the League of Nations translation, having apparently, dropped out through some typographical error.



den dem Ständigen Vergleichsrat die Möglichkeit gewähren, auf ihrem Gebiete nach Massgabe der dort den Gerichten zustehenden Befugnisse Zeugen und Sachverständige vorzuladen und zu vernehmen und Augenschein einzunehmen. Der Ständige Vergleichsrat kann die Beweise entweder in vollständiger Besetzung oder durch eines oder mehrere der gemeinsam berufenen Mitglieder erheben.

ART. 16. Der Ständige Vergleichsrat bestimmt seinen Sitz. Er kann ihn nach freiem Ermessen verlegen.

Der Ständige Vergleichsrat bildet nötigenfalls eine Kanzlei. Soweit er in die Kanzlei Angehörige der Parteien beruft, hat er dabei die Parteien gleichmässig zu berücksichtigen.

ART. 17. Der Ständige Vergleichsrat ist beschlussfähig, wenn alle Mitglieder ordnungsmässig geladen und mindestens die gemeinsam berufenen Mitglieder anwesend sind.

Der Ständige Vergleichsrat trifft seine Entschliessungen mit einfacher Stimmenmehrheit. Im Falle der Stimmengleichheit hat der Vorsitzende eine doppelte Stimme.

ART. 18. Dem Ständigen Vergleichsrat liegt ob, einen Bericht zu erstatten, der den Sachverhalt feststellt und, wenn die Umstände des Falls dazu Anlass geben, Vorschläge für die Beilegung der Streitigkeit enthält. In den Bericht wird die abweichende Ansicht eines in der Minderheit gebliebenen Mitglieds auf sein Verlangen festgestellt.

particular to grant it every legal assistance through the competent authorities. They shall enable the Permanent Board of Conciliation to summon and examine witnesses and experts and to proceed to investigations on the spot in their respective territories, within the limits of the powers enjoyed by their own Courts. The Permanent Board of Conciliation may take evidence either *in corpore* or through one or more of the members appointed jointly.

ART. 16. The Permanent Board of Conciliation shall determine its own meeting-place and shall be at liberty to transfer it.

The Permanent Board of Conciliation shall, if need be, establish a Registry. If it appoints nationals of the Contracting Parties to positions in this office, it shall treat both Parties alike.

ART. 17. The deliberations of the Permanent Board of Conciliation shall be valid if all the members have been duly convoked and if members nominated by mutual agreement are present at the meeting.

Decisions of the Permanent Board of Conciliation shall be taken by a majority vote. If the votes are equally divided, the chairman shall give a casting vote.

ART. 18. The Permanent Board of Conciliation shall draw up a report which shall determine the facts of the case and, if the circumstances permit, shall contain proposals for the settlement of the dispute. [The dissenting opinion of a member of the minority shall, at his desire, be stated in the report.]<sup>1</sup>

<sup>1</sup> The sentence in brackets is omitted from the League of Nations translation.

Der Bericht ist innerhalb von sechs Monaten nach dem Tage zu erstatten, an dem die Streitigkeit dem Ständigen Vergleichsrat unterbreitet wurde, es sei denn, dass die Parteien diese Frist im gemeinsamen Einverständnis verkürzen oder verlängern. Der Bericht soll in drei Ausfertigungen verfasst werden, von denen je eine jeder Partei ausgehändigt, die dritte vom Ständigen Vergleichsrat aufbewahrt wird.

Der Bericht hat weder in bezug auf die Tatsachen noch in bezug auf die rechtlichen Ausführungen die Bedeutung einer endgültig bindenden Entscheidung. Jedoch hat sich jede Partei innerhalb einer im Bericht festzusetzenden Frist darüber zu erklären, ob und inwieweit sie die Feststellungen des Berichts anerkennt und dessen Vorschläge annimmt. Diese Frist darf die Zeit von drei Monaten nicht überschreiten.

Es ist Sache der Parteien, im gemeinsamen Einverständnis zu bestimmen, ob der Bericht unverzüglich veröffentlicht werden soll. Kommt es jedoch nicht zu einem solchen Einverständnis, so kann der Ständige Vergleichsrat seinerseits aus besonderen Gründen die sofortige Veröffentlichung des Berichts veranlassen.

ART. 19. Jede Partei trägt die Vergütung für die Tätigkeit des von ihr ernannten Mitglieds des Ständigen Vergleichsrats sowie die Hälfte der Vergütung für die Tätigkeit der gemeinsam berufenen Mitglieder.

Jede Partei trägt die von ihr veranlassten Kosten des Verfahrens sowie die Hälfte der Kosten, die von dem Ständigen Vergleichsrat als gemeinsame bezeichnet werden.

ART. 20. Der im Schiedsgerichtsverfahren gefällte Spruch ist von

The report shall be submitted within six months from the date on which the dispute was laid before the Permanent Board of Conciliation, unless the Parties shall agree to shorten or extend this time-limit. The report shall be drawn up in three copies, one of which shall be handed to each of the Parties and the third preserved in the archives of the Permanent Board of Conciliation.

The report shall not, either as regards statement of fact or as regards legal considerations, be in the nature of a final judgment binding upon the Parties. Each Party shall, however, state, within a time-limit to be fixed by the report, whether and within what limits it recognises the correctness of the facts noted in the report and accepts the proposals which it contains. The duration of this time-limit shall not exceed three months.

The Parties shall jointly decide whether the report should be published immediately. If they fail to reach an agreement on this point, the Permanent Board of Conciliation may cause the report to be published immediately should there be special reasons for so doing.

ART. 19. Each Party shall bear the cost of the remuneration of the member appointed by itself and half the cost of remuneration of the members appointed jointly.

Each Party shall bear its own costs and half of the costs which the Permanent Board of Conciliation declares to be common to both Parties.

ART. 20. The award pronounced as the result of the procedure of

den Parteien nach Treu und Glauben zu erfüllen.

Die vertragschliessenden Teile verpflichten sich, während der Dauer des Schiedsgerichts- oder Vergleichsverfahrens nach Möglichkeit jede Massnahme zu vermeiden, die auf die Erfüllung des Schiedsspruchs oder die Annahme der Vorschläge des Ständigen Vergleichsrats nachteilig zurückwirken könnte. Bei einem Vergleichsverfahren haben sie sich bis zu dem Zeitpunkt, den der Ständige Vergleichsrat für die Annahmeerklärung der Parteien festsetzt, jeder gewaltsamen Selbsthilfe zu enthalten.

Das Schiedsgericht kann auf Verlangen einer Partei vorsorgliche Massnahmen anordnen, soweit diese von den Parteien auf dem Verwaltungswege durchgeführt werden können; ebenso kann der Ständige Vergleichsrat zum gleichen Zwecke Vorschläge machen.

ART. 21. Unter Vorbehalt entgegenstehender Bestimmungen des gegenwärtigen Vertrags oder der Schiedsordnung ist für das Schiedsgerichts- und Vergleichsverfahren das Haager Abkommen zur friedlichen Erledigung internationaler Streitfälle vom 18. Oktober 1907 massgebend.

Soweit der gegenwärtige Vertrag auf die Bestimmungen des Haager Abkommens verweist, finden sie im Verhältnis zwischen den vertragschliessenden Teilen selbst dann Anwendung, wenn diese oder einer von ihnen vom dem Abkommen zurückgetreten sein sollten.

Sofern weder der gegenwärtige Vertrag, noch die Schiedsordnung noch die sonst zwischen den vertragschliessenden Teilen bestehenden Übereinkünfte die Fristen und andere Einzelheiten des Schieds-

arbitration shall be carried out in good faith by the Parties concerned.

The Contracting Parties shall undertake, during the course of the arbitration or conciliation proceedings, to refrain as far as possible from any action liable to have a prejudicial effect on the execution of the arbitral award or on the acceptance of the proposals of the Permanent Board of Conciliation. In the case of conciliation proceedings they shall refrain from resorting to forcible measures of any kind until the expiration of the time-limit fixed by the Permanent Board of Conciliation, for the acceptance of its proposals.

The Arbitral Tribunal may, at the request of either of the Parties, prescribe measures of precaution provided that such measures can be carried out by the Parties through their administrative machinery. The Permanent Board of Conciliation may also make proposals for the same purpose.

ART. 21. Subject to any provisions to the contrary laid down in the present Convention or the agreement of reference, the procedure of arbitration and conciliation shall be regulated by the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

In as far as the present Convention refers to the stipulations of the Hague Convention, the latter shall continue to be applicable to the relations between the Contracting Parties, even if one or both of them denounce the Hague Convention.

In so far as the present Convention, or the agreement of reference, or any other conventions in force between the Parties do not lay down the time-limits and other details connected with the procedure of arbitration or concili-

gerichts- oder Vergleichsverfahrens festlegen, ist das Schiedsgericht oder der Ständige Vergleichsrat selbst befugt, die erforderlichen Bestimmungen zu treffen.

ART. 22. Der gegenwärtige Vertrag soll so bald als möglich ratifiziert werden. Die Ratifikationsurkunden sollen in Helsingfors ausgetauscht werden.

Der Vertrag tritt einen Monat nach dem Austausch der Ratifikationsurkunden in Kraft.

Der Vertrag gilt für die Dauer von zehn Jahren. Wird er nicht sechs Monate vor Ablauf dieses Zeitraums gekündigt, so bleibt er für weitere zwei Jahre in Kraft. Das gleiche gilt, wenn der Vertrag nicht mit der bezeichneten Frist gekündigt wird, für die spätere Zeit.

Ein Schiedsgerichtsverfahren oder ein Vergleichsverfahren, das bei Ablauf des gegenwärtigen Vertrags schwebt, nimmt seinen Lauf nach den Bestimmungen dieses Vertrags oder eines anderen Abkommens, das von den vertragsschliessenden Teilen an dessen Stelle vereinbart wird.

Zu Urkund dessen haben die Bevollmächtigten den gegenwärtigen Vertrag unterzeichnet.

Ausgefertigt in doppelter Urschrift in deutscher, finnischer und schwedischer Sprache in Berlin, am 14. März 1925.

Friedrich Gaus  
Harri Holma

ation, the Tribunal of the Permanent Board of Conciliation shall itself be competent to decide as to the necessary provisions.

ART. 22. The present Convention shall be ratified as soon as possible. The instruments of ratification shall be exchanged at Helsingfors.

The Convention shall come into force one month after the exchange of the instruments of ratification.

The Convention shall be valid for a period of ten years. If, however, it is not denounced six months before the expiration of this period, it shall remain in force for a further period of two years, and so on, so long as it has not been denounced within the prescribed period.

If a dispute which has been referred to arbitration or conciliation has not been settled when the present Treaty expires, the case shall be proceeded with according to the stipulations of the present Convention or of any other convention which the Contracting Parties may agree to substitute therefor.

In witness whereof the Plenipotentiaries have signed the present Convention.

Done in duplicate in German, Finnish and Swedish at Berlin, March 14, 1925.

Friedrich Gaus  
Harri Holma

#### FINAL PROTOCOL

(1) Die vertragsschliessenden Teile gehen von der Ansicht aus, dass die einzelnen Bestimmungen des Vertrags im Zweifel zugunsten der Anwendung des Grundsatzes der schiedsgerichtlichen Erledigung von Streitigkeiten auszulegen sind.

(1) The Contracting Parties are agreed that in doubtful cases the stipulations of the present Convention shall be interpreted in favour of the application of the principle of settlement of disputes by arbitration.

(2) Die vertragschliessenden Teile erklären, dass der Vertrag auch dann Anwendung findet, wenn eine Streitigkeit in Ereignissen ihren Ursprung hat, die zeitlich vor seinem Abschluss liegen. Etwaige mit Ereignissen des Weltkrieges in unmittelbarem Zusammenhange stehende Streitigkeiten werden jedoch mit Rücksicht auf ihre allgemeine politische Bedeutung hiervon ausgeschlossen.

(3) Die Tatsache, dass an einer Streitigkeit dritte Staaten beteiligt sind, schliesst die Anwendung des Vertrags nicht aus. Die vertragschliessenden Teile werden gegebenenfalls dahin wirken, die dritten Staaten zum Anschluss an das Schiedsgerichts- oder Vergleichsverfahren zu veranlassen. Für diesen Fall bleibt es den beiderseitigen Regierungen vorbehalten, im gemeinsamen Einverständnis eine besondere Zusammensetzung des Schiedsgerichts oder des Ständigen Vergleichsrats vorzuschlagen. Kann eine Verständigung mit den dritten Staaten über deren Anschluss nicht binnen angemessener Frist herbeigeführt werden, so nimmt das Verfahren zwischen den vertragschliessenden Teilen mit Wirkung nur für diese den im Vertrage vorgesehenen Verlauf.

(4) Die vertragschliessenden Teile erklären, dass Streitigkeiten zwischen Deutschland und einem dritten Staate, an denen Finnland in seiner Eigenschaft als Mitglied des Völkerbundes beteiligt werden könnte, nicht als Streitigkeiten zwischen den vertragschliessenden Teilen im Sinne des Vertrages angesehen werden können.

(2) The Contracting Parties declare that the Convention shall apply equally to disputes arising out of events which occurred prior to its conclusion. In consideration of their general political bearing, an exception shall, however, be made with regard to disputes arising directly out of the world-war.

(3) The Convention shall not cease to be applicable if a third State is concerned in a dispute. The Contracting Parties shall endeavour, if necessary, to induce the third State to agree to refer the dispute to arbitration or conciliation. In this case the two Governments may, if they so desire, jointly provide that the Tribunal or the Permanent Board of Conciliation shall be composed of members specially chosen for the case.

If no agreement is reached with the third State as regards its adhesion within a reasonable period, the case shall proceed in accordance with the provisions of the Convention, but with effect only as regards the Contracting Parties.

(4) The Contracting Parties declare that disputes between Germany and a third State, in which Finland might be interested as a Member of the League of Nations, cannot be considered as disputes between the Contracting Parties in the sense intended by the present Convention.

Berlin, am 14. März 1925.  
Friedrich Gaus  
Harri Holma

Berlin, March 14, 1925.  
Friedrich Gaus  
Harri Holma

## PERMANENT COMMISSION OF CONCILIATION

*President appointed by both Parties*

JOHN LUDWIG MOWINCKEL, Minister for Foreign Affairs of Norway, former Prime Minister of Norway. (*Norwegian.*)

*Members appointed by both Parties*

BARON MARKS VON WÜRTEMBERG, President of the Court of Appeal at Stockholm. (*Swedish.*)

ERNEST DELAQUIS, Professor, former Chief of Bureau at the Department of Justice at Berne. (*Swiss.*)

*Member appointed by Finland*

ANTTI TULENHEIMO, Rector of the University of Helsingfors, former Prime Minister of Finland. (*Finnish.*)

*Member appointed by Germany*

THEODOR NIEMEYER, former Professor at the University of Kiel. (*German.*)

## No. 37

## LATVIA-SWEDEN: TREATY OF CONCILIATION

Signed at Riga March 28, 1925; ratifications exchanged September 24, 1925.

Original text from Sweden, *Överenskommelser med främmande makter*, 1925, No. 22;<sup>1</sup> English translation from League of Nations, *Treaty Series*, XXXVII, 133-139.

(Translation)

Sa Majesté le Roi de Suède et le Président de la République de Lettonie, animés du désir de favoriser le développement de la procédure de conciliation des différends internationaux dans un esprit conforme au Pacte de la Société des Nations, décidés à réaliser, dans les rapports entre les deux États, les principes de la résolution de l'Assemblée de la Société des Nations en date du 22 septembre 1922, tendant à l'institution de commissions de conciliation par voie de conventions entre les États,

ont résolu de conclure à cet effet une Convention et ont nommé Leurs plénipotentiaires, savoir:

The President of the Latvian Republic and his Majesty the King of Sweden, being desirous of promoting the development of the procedure of conciliation in international disputes in accordance with the spirit of the Covenant of the League of Nations, and being desirous of carrying into effect the principles laid down for this purpose in the resolution regarding the conclusion of Conciliation Conventions which was adopted by the Assembly of the League of Nations on September 22, 1922, have for this purpose agreed to conclude a Convention, and have appointed as their Plenipotentiaries the following:

<sup>1</sup> See also League of Nations, *Treaty Series*, XXXVII, 132.

Sa Majesté le Roi de Suède:  
Monsieur Ulf Torsten Undén,  
Son Envoyé Extraordinaire et Mi-  
nistre Plénipotentiaire à Riga, et  
le Président de la République de  
Lettonie:

Monsieur Germain Albat, Mi-  
nistre Plénipotentiaire, Secrétaire  
Général au Ministère des Affaires  
Etrangères,

lesquels, dûment autorisés à cet  
effet, sont convenus des articles  
suivants.

ARTICLE 1<sup>er</sup>. Les Parties contrac-  
tantes s'engagent à soumettre, aux  
fins d'enquête et de conciliation, à  
une Commission permanente, con-  
stituée dans les conditions prévues  
ci-dessous, tous différends, de quel-  
que nature qu'ils soient, qui n'au-  
raient pu être résolus par la voie  
diplomatique dans un délai raison-  
nable et qui ne doivent pas être  
déférés, aux termes, soit du Statut  
de la Cour Permanente de Justice  
Internationale, soit de tout autre  
accord conclu entre Elles, à la dite  
Cour ou à un tribunal d'arbitrage.

ART. 2. Si un différend, dont  
l'une des Parties a saisi la Com-  
mission, est porté par l'autre Partie,  
conformément aux dispositions  
visées à l'article 1<sup>er</sup>, devant la Cour  
Permanente ou un tribunal d'arbi-  
trage, la Commission suspendra  
l'examen du différend jusqu'à ce  
que la Cour ou le tribunal ait statué  
sur la compétence.

ART. 3. S'il s'agit d'un différend  
qui, à teneur de la législation in-  
terne de l'une des Hautes Parties  
Contractantes, relève de la compé-  
tence des tribunaux, les tribunaux  
administratifs y compris, la Partie  
défenderesse pourra s'opposer à ce

The President of the Latvian  
Republic:

M. Germain Albat, Minister  
Plenipotentiary, Secretary General  
at the Ministry for Foreign Affairs;  
His Majesty the King of Sweden:  
M. Ulf Torsten Undén, His En-  
voy Extraordinary and Minister  
Plenipotentiary at Riga,

Who, having been duly provided  
with full powers for that purpose,  
have agreed upon the following  
articles:

ARTICLE 1. The Contracting  
Parties undertake to refer to a  
Permanent Commission, to be ap-  
pointed in the manner set forth  
below, for investigation and settle-  
ment by conciliation, all disputes  
of any nature whatever which it  
has not been possible to settle  
within reasonable time through  
diplomatic channels, and which  
should not, under the terms of the  
Statute of the Permanent Court of  
International Justice or of any  
other agreement between the Par-  
ties, be submitted either to the  
Permanent Court or to a court of  
arbitration.

ART. 2. When a dispute, which  
has been referred to the Commis-  
sion by one of the Parties, has been  
brought before the Permanent  
Court or a court of arbitration by  
the other Party under the terms of  
Article 1, the Commission shall  
postpone its investigation of the  
dispute until the Permanent Court  
or the court of arbitration shall  
have determined the question of  
competence in the case.

ART. 3. In the case of a dispute  
which, in accordance with the do-  
mestic legislation of either of the  
High Contracting Parties, comes  
within the jurisdiction of the courts,  
including administrative courts,  
the defending Party may decline to

qu'il soit soumis à une procédure d'enquête ou de conciliation avant qu'un jugement définitif ait été rendu par l'autorité judiciaire compétente.

ART. 4. La Commission se compose de cinq membres. Chaque Etat en désigne deux, dont l'un peut être choisi parmi ses propres nationaux. Le cinquième, qui remplit les fonctions de Président, doit appartenir à une autre nationalité qu'à celles des autres membres de la Commission. Le Président est désigné d'un commun accord par les Parties. Au cas où cet accord ne pourrait s'établir, sa nomination sera effectuée à la requête de l'une des Parties, par le Président de la Cour Permanente de Justice Internationale ou, si celui-ci est ressortissant d'un des Etats contractants, par le Vice-Président de la Cour.

La Commission devra être constituée dans les six mois qui suivront l'échange des ratifications de la présente Convention.

ART. 5. Les Membres de la Commission sont nommés pour trois ans. Sauf accord contraire entre les Parties, ils ne pourront pas être révoqués pendant la durée de leur mandat. En cas de décès ou de retraite de l'un d'eux il devra être pourvu à son remplacement pour le reste de la durée de son mandat, si possible dans les deux mois qui suivront et, en tout cas, aussitôt qu'un différend aura été soumis à la Commission.

ART. 6. Dans un délai de quinze jours, à dater de celui où l'un des Etats contractants aura porté un différend devant la Commission, chacune des Parties pourra, pour l'examen du litige visé, remplacer l'un des membres désignés par Elle par une personne possédant une

accept any procedure of enquiry or conciliation until such time as final judgment has been given on the dispute by the competent authorities.

ART. 4. The Commission shall be composed of five members. Each Party shall appoint two members, one of which may be a national of the appointing State. The fifth member, who shall act as chairman of the Commission, shall be a national of a State not otherwise represented on the Commission. He shall be appointed jointly by the Parties. Should the Parties be unable to agree, the chairman shall, at the request of one of the Parties, be appointed by the President of the Permanent Court of International Justice, or, should the latter be a national of one of the Contracting States, by the Vice-President of the Court.

The Commission shall be appointed within six months after the ratifications of the present Convention have been exchanged.

ART. 5. The members of the Commission shall be appointed for three years. They shall be irremovable during their period of office unless the Parties agree otherwise. In the event of the death or retirement of a member, the vacancy must be filled for the remainder of his term of office within the next two months if possible, but, in any case, as soon as a dispute has been submitted to the Commission.

ART. 6. Either of the Parties may, within fourteen days after one of them has submitted a dispute to the Commission, replace one of the members whom it has appointed by a person specially qualified to deal with the particular case before the Commission,



compétence spéciale dans la matière, sous réserve, toutefois, de la règle stipulée à l'article 4 concernant la nationalité des membres de la Commission.

La Partie qui voudrait user de ce droit, en avertira immédiatement la Partie adverse; dans ce cas, celle-ci a la faculté d'user du même droit, dans un délai de quinze jours à partir de celui où l'avertissement Lui est parvenu.

ART. 7. Si, à l'expiration du mandat d'un membre, il n'est pas pourvu à son remplacement, son mandat est censé renouvelé pour une période de trois ans; toutefois, sur la demande de l'une des Parties, les fonctions du Président doivent cesser à la fin de son mandat.

Un membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part à l'examen du différend jusqu'à ce que la procédure soit terminée, nonobstant le fait que son remplaçant ait été désigné.

ART. 8. Les différends sont portés devant la Commission par la notification qui en est faite par l'une des Parties au Président de la Commission. Cette notification doit être portée immédiatement à la connaissance de la Partie adverse. Le Président doit convoquer la Commission dans le plus bref délai.

La Partie ayant saisi la Commission du différend en avisera le Secrétaire général de la Société des Nations.

ART. 9. La Commission se réunit dans l'endroit que les Parties désignent d'un commun accord ou, à défaut d'accord, au Siège de la Société des Nations.

ART. 10. Les Parties s'engagent à fournir à la Commission toutes les

subject, however, to the rules laid down in Article 4 with regard to the nationality of members.

If one Party desires to avail itself of this right, it shall at once inform the other Party, which may take a similar step within fourteen days of receiving such notification.

ART. 7. If, at the end of his term of office, a member of the Commission has not been replaced, his term shall be considered as renewed for a period of three years. The chairman, however, shall, at the request of one of the Parties, cease to hold office at the end of his appointed term.

If a member's term of office expires in the course of proceedings in connection with a dispute, he shall continue to take part in such proceedings until the dispute has been settled, even if his substitute has been appointed.

ART. 8. When one of the Parties desires to submit a dispute to the Commission, it shall notify the chairman. The other Party shall also be informed at once of such notification. The chairman shall convene the Commission as soon as possible.

The Party which has submitted the dispute to the Commission shall notify the Secretary-General of the League of Nations.

ART. 9. The Commission shall meet at the place decided by common agreement between the Parties, or in the absence of such agreement, at the seat of the League of Nations.

ART. 10. The Parties shall supply the Commission with all the in-

informations utiles et à lui faciliter, à tous égards, l'accomplissement de sa tâche.

La Commission pourra demander au Secrétaire général de la Société des Nations l'assistance du Secrétariat, si la Commission en a besoin pour ses travaux.

ART. 11. Les Parties ont le droit de nommer des agents spéciaux auprès de la Commission qui devront en même temps servir d'intermédiaires entre Elles et la Commission.

ART. 12. Les débats devant la Commission ne sont publics que si la Commission, d'accord avec les Parties, en décide ainsi.

ART. 13. La Procédure devant la Commission est contradictoire.

La Commission réglera elle-même la procédure, en tenant compte, à défaut d'une décision contraire prise à l'unanimité, des dispositions contenues au titre III de la Convention de la Haye pour le règlement pacifique des conflits internationaux, du 18 octobre 1907.

ART. 14. Sous réserve des dispositions contraires de la présente Convention, les décisions de la Commission sont prises à la majorité simple. Chaque membre dispose d'une voix, celle du Président étant décisive en cas de partage. La Commission peut délibérer valablement si tous les membres ont été dûment convoqués et si le Président et au moins deux autres membres sont présents.

ART. 15. La Commission fera un rapport sur chaque différend qui lui a été soumis. Le rapport compor-

formation which may be useful, and shall in every respect assist it in the accomplishment of its task.

The Commission may apply to the Secretary-General of the League of Nations for the assistance of the Secretariat if it appears that such assistance is necessary to facilitate its task.

ART. 11. The Parties shall be entitled to appoint special representatives on the Commission. These representatives shall also act as intermediaries between the Parties and the Commission.

ART. 12. Proceedings before the Commission shall not be public unless the Commission so decides and the Parties agree.

ART. 13. In proceedings before the Commission both Parties shall be heard.

The Commission shall draw up rules to govern its procedure, subject to the proviso that the regulations laid down in Chapter III of The Hague Convention of October 18, 1907, for the pacific settlement of international disputes shall be applied unless the Commission unanimously agrees to depart from these regulations.

ART. 14. The Commission shall take its decisions by a majority vote of its members except where otherwise laid down in the present Convention. Each member shall have one vote, and in case of a tie the chairman shall have a casting vote.

A quorum shall be constituted if all the members have been duly summoned, and if the chairman and not less than two other members are present.

ART. 15. The Commission shall make a report on each dispute submitted to it. The report shall in-

tera un projet de règlement du différend, si les circonstances y donnent lieu et si trois au moins des membres de la Commission se mettent d'accord sur un tel projet.

L'avis motivé des membres restés en minorité sera consigné dans le rapport.

ART. 16. Sous réserve du droit des Parties de prolonger ce délai, la Commission doit achever ses travaux dans un délai de six mois, à dater du jour où le différend a été porté devant la Commission.

Le temps durant lequel les travaux de la Commission sont suspendus selon les dispositions de l'article 2 n'est pas compris dans le délai susmentionné.

ART. 17. Le rapport de la Commission est signé par le Président et porté sans délai à la connaissance des Parties et du Secrétaire général de la Société des Nations.

Les Parties s'engagent à porter à Leur connaissance réciproque dans un délai raisonnable si Elles acceptent les constatations du rapport et les propositions qu'il renferme.

Il appartient aux Parties de décider, d'un commun accord, si le rapport de la Commission doit être publié immédiatement. Toutefois, même à défaut de cet accord, la Commission pourra, en cas de raisons spéciales, procéder à la publication immédiate du rapport.

ART. 18. Chacune des Parties indemniserà les membres de la Commission nommés par Elle et fournira la moitié de l'indemnité du Président.

Les Parties doivent chercher à s'entendre pour que, des deux côtés, les indemnités des membres de la Commission soient fixées d'après les mêmes chiffres.

clude a proposal for the settlement of the dispute if a settlement is possible and if at least three members agree to the proposals.

The reasoned opinion of the members who are in the minority shall be recorded in the report.

ART. 16. The Commission shall complete its task within six months from the day when the dispute is submitted to it, unless the Parties agree to an extension of this period.

The above period shall not include any time during which the Commission's work is interrupted for reasons arising out of the provisions of Article 2.

ART. 17. The Commission's report shall be signed by the president, who shall immediately bring it to the knowledge of the Parties and of the Secretary-General of the League.

The Parties undertake to inform each other within reasonable time as to how far they approve the findings of the report and accept the settlement proposed therein.

The Parties shall decide, in agreement with one another, whether the Commission's report shall be published immediately after it has been issued; in special circumstances, however, the Commission may decide that the report shall be published at once, even in the absence of any such agreement.

ART. 18. Each Party shall pay the allowances of the members of the Commission which it has appointed, and shall also pay half of the allowances of the chairman.

The Parties shall endeavour to arrange that the allowances of the members of the Commission on both sides shall be fixed at the same figure.

Chaque Partie supportera les frais de procédure encourus par Elle et la moitié de ceux déclarés communs par la Commission.

Each Party shall bear the costs of procedure which it has incurred, and half of those which the Commission may declare to be joint costs.

ART. 19. La présente convention sera ratifiée et les ratifications seront échangées à Riga aussitôt que faire se pourra. Elle entrera en vigueur immédiatement après l'échange des ratifications et aura une durée de cinq années à dater de l'échange des ratifications. Si elle n'a pas été dénoncée six mois au moins avant l'expiration de ce délai, elle restera en vigueur pendant une nouvelle période de cinq ans et sera ainsi de suite censée renouvelée chaque fois pour cinq ans, sauf dénonciation six mois au moins avant l'expiration de la précédente période de cinq ans.

ART. 19. The present Convention shall be ratified and the ratifications shall be exchanged at Riga as soon as possible. It shall come into force as soon as the instruments of ratification have been exchanged, and shall remain in force for five years from that date. Unless denounced within six months before the expiration of this period, it shall remain in force for a further period of five years and shall thereafter be regarded as renewed for successive periods of five years unless denounced within six months before the expiration of the preceding period of five years.

En foi de quoi les plénipotentiaires respectifs ont signé la présente convention et y ont apposé leurs cachets.

In faith whereof the Plenipotentiaries have signed the present Convention and thereto affixed their seals.

Fait à Riga, en deux exemplaires, le 28 mars 1925.

Done in duplicate, at Riga, on March 28, 1925.

Undén  
Albat

G. Albat  
T. Undén

#### PERMANENT COMMISSION OF CONCILIATION

(Appointed November 1, 1926)

##### *President appointed by both Parties*

JOSEPH LIMBURG, Member of the Council of State of the Netherlands.  
(*Dutch.*)

##### *Members appointed by Latvia*

ARVED BERG, former Minister of the Interior of Latvia. (*Latvian.*)  
JOHAN LAIDONER, General of the Estonian Army. (*Estonian.*)

##### *Members appointed by Sweden*

MARTIN FRHR, Professor at the Higher Commercial College of Stockholm, Member of Parliament. (*Swedish.*)  
WILHELM TOPSÖE-JENSEN, Judge of the Supreme Court of Denmark.  
(*Danish.*)

## No. 38

FRANCE-SWITZERLAND: TREATY OF CONCILIATION,  
ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Paris April 6, 1925; ratifications not yet exchanged August 1, 1930.

Original text from *Message du Conseil fédéral suisse*, No. 1076, May 15, 1925.

(Translation)

Le Conseil Fédéral Suisse et le Président de la République Française

Également convaincus de la nécessité d'assurer dans tous les cas par les voies pacifiques le règlement des différends qui peuvent surgir entre les États,

Considérant que le Traité d'arbitrage conclu entre la Suisse et la France le 16 Décembre 1904 est venu à expiration le 14 Juillet 1917,

Vu les liens d'amitié et les rapports de bon voisinage qui unissent heureusement le peuple suisse et le peuple français,

Ont résolu de conclure un Traité en vue du règlement pacifique par voie de conciliation et à défaut par la voie judiciaire ou arbitrale de tous les différends qui pourraient surgir entre la Suisse et la France et ont nommé à cet effet pour leurs plénipotentiaires, savoir:

Le Conseil fédéral suisse:

Monsieur Alphonse Dunant, Envoyé Extraordinaire et Ministre Plénipotentiaire de la Confédération suisse à Paris;

Le Président de la République française:

Monsieur Edouard Herriot, Président du Conseil, Ministre des Affaires Étrangères;

Lesquels, après avoir échangé leurs pleins pouvoirs respectivement reconnus en bonne et due forme, ont convenu des dispositions suivantes:

The Swiss Federal Council and the President of the French Republic, being equally convinced of the necessity of ensuring in all cases the settlement by pacific methods of such disputes as may arise between their countries,

Having regard to the fact that the Treaty of Arbitration concluded between Switzerland and France on December 16, 1904, expired on July 14, 1917,

Having regard to the ties of friendship and the neighborly relations which happily unite the Swiss and French peoples,

Have resolved to conclude a Treaty for the peaceful settlement by conciliation, or, if that is not possible, by judicial or arbitral means, of all disputes that may arise between Switzerland and France, and have for that purpose appointed as their plenipotentiaries, that is to say:

The Swiss Federal Council:

Monsieur Alphonse Dunant, Envoy Extraordinary and Minister Plenipotentiary of the Swiss Confederation at Paris;

The President of the French Republic:

Monsieur Edouard Herriot, Prime Minister, Minister of Foreign Affairs;

who, having exchanged their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1<sup>er</sup>. Tous différends entre le Conseil fédéral suisse et le Gouvernement de la République française, de quelque nature qu'ils soient et qui n'auraient pu être résolus par les procédés diplomatiques ordinaires, seront, avant toute procédure devant la Cour permanente de Justice Internationale ou avant tout recours à l'arbitrage, soumis à fin de conciliation à une commission internationale permanente, dite *Commission permanente de conciliation*, constituée conformément au présent Traité.

Toutefois, les Hautes Parties Contractantes auront toujours la liberté de convenir qu'un litige déterminé sera réglé directement par la Cour Permanente de Justice Internationale ou par voie d'arbitrage, sans recours au préliminaire de conciliation ci-dessus prévu.

ART. 2. S'il s'agit d'un différend qui, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux de celle-ci, le différend ne sera soumis à la procédure prévue par le présent Traité qu'après jugement passé en force de chose jugée rendu par l'autorité judiciaire nationale compétente.

ART. 3. La Commission permanente de conciliation prévue à l'article premier sera composée de cinq membres, qui seront désignés comme il suit, savoir: les Hautes Parties contractantes nommeront chacune un commissaire choisi parmi leurs nationaux respectifs et désigneront, d'un commun accord, les trois autres commissaires parmi les ressortissants de tierces Puissances; ces trois commissaires devront être de nationalités différentes et, parmi eux, les Hautes

ARTICLE 1. All disputes between the Swiss Federal Council and the Government of the French Republic, whatever may be their nature, which cannot be settled by the ordinary diplomatic methods, shall, before any proceedings are instituted before the Permanent Court of International Justice or any recourse is had to arbitration, be submitted with a view to conciliation to a permanent international commission styled the *Permanent Conciliation Commission*, constituted as provided in the present Treaty.

The High Contracting Parties shall always be at liberty, however, to agree that any particular dispute shall be settled direct by the Permanent Court of International Justice or by arbitration, without recourse to the preliminary procedure of conciliation provided for above.

ART. 2. In the case of a dispute which, according to the municipal legislation of one of the Parties, falls within the jurisdiction of the national courts of that Party, the dispute shall not be submitted to the procedure provided for in the present Treaty until a judgment with final effect has been delivered by the competent national judicial authority.

ART. 3. The Permanent Conciliation Commission referred to in Article 1 shall be composed of five members, who shall be appointed as follows: each of the High Contracting Parties shall nominate a commissioner chosen from among its nationals, and the two Parties jointly shall select the other three commissioners from among the nationals of third Powers; these three commissioners must be of different nationalities, and the High Contracting Parties shall select the

Parties contractantes désigneront le Président de la Commission.

Les Commissaires sont nommés pour trois ans; leur mandat est renouvelable. Ils resteront en fonctions jusqu'à leur remplacement, et, dans tous les cas, jusqu'à l'achèvement de leurs travaux en cours au moment de l'expiration de leur mandat.

Il sera pourvu, dans le plus bref délai, aux vacances qui viendraient à se produire, par suite de décès ou de démission, en suivant le mode fixé pour les nominations.

ART. 4. La Commission permanente de conciliation sera constituée dans les trois mois qui suivront l'échange des ratifications du présent Traité.

Si la nomination des commissaires à désigner en commun n'intervenait pas dans ledit délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, Sa Majesté la Reine des Pays-Bas sera, à défaut d'autre entente, priée de procéder aux désignations nécessaires.

ART. 5. La Commission permanente de conciliation sera saisie par voie de requête adressée au Président par les deux Parties agissant d'un commun accord ou, à défaut, par l'une ou l'autre des Parties.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à la Partie adverse.

ART. 6. La Commission permanente de conciliation aura pour tâche d'élucider les questions en

President of the Commission from among them.

The commissioners shall be appointed for three years, and shall be reëligible. They shall continue to hold office until their successors have been appointed, and in any case until the conclusion of the proceedings in progress at the expiry of their term.

Any vacancies that may occur through death or resignation shall be filled as soon as possible by the method followed in making appointments.

ART. 4. The Permanent Conciliation Commission shall be set up within three months of the exchange of the ratifications of the present Treaty.

If the commissioners to be appointed jointly are not appointed within that period, or, in the case of a vacancy, within three months of the occurrence of the vacancy, Her Majesty the Queen of the Netherlands shall, unless it be otherwise agreed, be asked to make the necessary selections.

ART. 5. The Permanent Conciliation Commission shall be seized of a dispute by a request addressed to the President by the two Parties acting in concert or, if this is not possible, by either Party.

The request shall contain a brief statement of the subject of the dispute, followed by an invitation to the Commission to take all steps calculated to lead to a conciliation.

If the request is made by only one of the Parties, that Party shall at once notify the other Party.

ART. 6. The duty of the Permanent Conciliation Commission shall be to elucidate the questions

litige, de recueillir à cette fin toutes informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, proposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

A la fin de ses travaux, la Commission dressera un procès-verbal constatant, suivant les cas, soit que les Parties se sont arrangées et, s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la Commission devront, à moins que les Parties en conviennent différemment, être terminés dans le délai de six mois à compter du jour où la Commission aura été saisie du litige.

ART. 7. A moins de stipulation spéciale contraire, la Commission Permanente de conciliation réglera elle-même sa procédure, qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la Commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du Titre III (Commissions internationales d'enquête) de la Convention de la Haye de 18 Octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 8. La Commission permanente de conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son Président.

ART. 9. Les travaux de la Commission Permanente de conciliation ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties.

in dispute, to collect with that object all useful information by inquiry or otherwise, and to endeavor to bring the Parties to an agreement. It may, after examining the case, intimate to the Parties the terms of settlement which seem to it suitable, and lay down a time-limit within which they are to reach their decision.

At the close of its proceedings the Commission shall draw up a report stating, as the case may be, either that the Parties have come to an agreement and, if need be, the terms of the agreement, or that it has proved impossible to effect a settlement.

The Commission's proceedings must, unless the Parties otherwise agree, be concluded within six months of the day on which the dispute was laid before the Commission.

ART. 7. Unless any special stipulation is made to the contrary, the Permanent Conciliation Commission shall settle its own procedure, which shall in all cases allow of both Parties being heard. So far as concerns investigations, the Commission shall, unless it unanimously decides otherwise, conform to the provisions of Part III (International Commissions of Inquiry) of the Hague Convention of October 18, 1907, for the pacific settlement of international disputes.

ART. 8. Unless the Parties otherwise agree, the Permanent Conciliation Commission shall meet at the place selected by its President.

ART. 9. The proceedings of the Permanent Conciliation Commission shall not take place in public unless the Commission, with the consent of the Parties, so decides.



ART. 10. Les Parties seront représentées auprès de la Commission Permanente de conciliation par des agents ayant mission de servir d'intermédiaires entre elles et la Commission; elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraîtrait utile.

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux parties ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement.

ART. 11. Sauf disposition contraire du présent Traité, les décisions de la Commission permanente de conciliation seront prises à la majorité des voix.

ART. 12. Les Hautes Parties contractantes s'engagent à faciliter les travaux de la Commission permanente de conciliation et, en particulier, à lui fournir dans la plus large mesure possible tous documents et informations utiles, ainsi qu'à user des moyens dont elles disposent pour lui permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

ART. 13. Pendant la durée des travaux de la Commission permanente de conciliation, chacun des commissaires recevra une indemnité dont le montant sera arrêté d'un commun accord entre les Hautes Parties contractantes, qui en supporteront chacune une part égale.

ART. 14. A défaut de conciliation devant la Commission permanente de conciliation, le litige

ART. 10. The Parties shall be represented before the Permanent Conciliation Commission by agents who shall act as intermediaries between them and the Commission; they may, in addition, obtain the assistance of counsel and experts appointed by them for that purpose, and ask that any persons whose testimony may seem to them of value be heard by the Commission.

The Commission for its part shall be entitled to ask for oral explanations from the agents, counsel, and experts of the two Parties, and from any persons whom it may think fit to summon with the consent of their Governments.

ART. 11. Except as otherwise provided in the present Treaty, the decisions of the Permanent Conciliation Commission shall be taken by a majority vote.

ART. 12. The High Contracting Parties undertake to facilitate the labors of the Permanent Conciliation Commission, and in particular to supply it as largely as possible with all relevant documents and information, and also to use the means at their disposal to enable it to summon and hear witnesses or experts in their territory and in accordance with their law, and to visit the localities in question.

ART. 13. During the proceedings of the Permanent Conciliation Commission, each of the commissioners shall receive an allowance, which shall be fixed by agreement between the High Contracting Parties and borne by them in equal shares.

ART. 14. If no settlement can be reached before the Permanent Conciliation Commission, the dispute

sera porté devant la Cour permanente de Justice internationale toutes les fois qu'il s'agira d'un des cas prévus à l'article 36, alinéa 2, du Statut de ladite Cour, relatif à sa compétence. Il appartiendra, le cas échéant, à la Cour de décider, conformément à l'article 36, alinéa 4, de son Statut, si elle est compétente.

Tous autres litiges seront réglés par voie d'arbitrage dans les conditions prévues à l'article 15 du présent Traité; toutefois, en cas de différends pour la solution desquels une procédure spéciale d'arbitrage serait prescrite par d'autres dispositions conventionnelles en vigueur entre les Hautes Parties contractantes, cette procédure sera suivie.

ART. 15. Le recours à l'arbitrage prévu à l'article 14, alinéa 2, sera régi par la Convention de La Haye du 18 Octobre 1907 pour le règlement pacifique des conflits internationaux.

Toutefois, à défaut d'accord entre les Parties, le Tribunal arbitral sera composé de cinq membres désignés suivant la méthode prévue aux articles 3 et 4 du présent Traité en ce qui concerne la Commission permanente de conciliation.

ART. 16. Si quelque contestation venait à surgir entre les Hautes Parties contractantes relativement à l'application du présent Traité, cette contestation serait directement portée devant la Cour permanente de Justice internationale dans les conditions prévues à l'article 40 du Statut de ladite Cour.

ART. 17. Le présent Traité sera ratifié et les ratifications en seront échangées à Paris aussitôt que faire se pourra.

ART. 18. Le présent Traité entrera en vigueur dès l'échange des

shall be laid before the Permanent Court of International Justice, if it is one of the cases contemplated in Article 36, paragraph 2, of the Statute of the Court, which relates to its jurisdiction. It shall rest with the Court to decide, where necessary, in accordance with Article 36, paragraph 4, of its Statute, whether it has jurisdiction.

All other disputes shall be settled by arbitration in the manner laid down in Article 15 of this Treaty; but in disputes for the settlement of which any special arbitration procedure is prescribed by other treaty provisions in force between the High Contracting Parties, such procedure shall be followed.

ART. 15. The resort to arbitration referred to in Article 14, paragraph 2, shall be governed by the Hague Convention of October 18, 1907, for the pacific settlement of international disputes.

Unless, however, the Parties otherwise agree, the Court of Arbitration shall be composed of five members appointed by the method laid down for the Permanent Conciliation Commission in Articles 3 and 4 of this Treaty.

ART. 16. Any dispute that may arise between the High Contracting Parties as to the application of this Treaty shall be brought before the Permanent Court of International Justice direct, as provided in Article 40 of the Statute of the Court.

ART. 17. The present Treaty shall be ratified, and the ratifications shall be exchanged at Paris as soon as possible.

ART. 18. The present Treaty shall come into force upon the ex-

ratifications et aura une durée de dix ans à partir de son entrée en vigueur. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il sera considéré comme renouvelé pour une période de cinq années et ainsi de suite.

Si, lors de l'expiration du présent Traité une procédure quelconque en vertu de ce Traité se trouvait pendante devant la Commission permanente de conciliation, devant la Cour permanente de Justice internationale ou devant un Tribunal d'arbitrage, cette procédure serait poursuivie jusqu'à son achèvement.

*En foi de quoi* les Plénipotentiaires susnommés ont signé le présent Traité.

Fait à Paris, en double exemplaire, le six Avril mil neuf cent vingt cinq.

Dunant  
E. Herriot

change of ratifications, and shall remain operative for ten years from its entry into force. Unless denounced six months before the expiry of this term, it shall be deemed to be renewed for a period of five years, and similarly thereafter.

If, at the expiry of the present Treaty, proceedings of any kind under this Treaty are pending before the Permanent Conciliation Commission, the Permanent Court of International Justice, or a Court of Arbitration, such proceedings shall be continued to their conclusion.

In faith whereof the above-named Plenipotentiaries have signed the present Treaty.

Done in duplicate at Paris this sixth day of April one thousand nine hundred and twenty-five.

Dunant  
E. Herriot

PERMANENT COMMISSION OF CONCILIATION  
Not yet constituted.

### No. 39

#### CZECHOSLOVAKIA-POLAND: TREATY OF CONCILIATION AND ARBITRATION

Signed at Warsaw April 23, 1925; ratifications exchanged April 14, 1926.

Original text from Poland, *Dziennik Ustaw*, 1926, No. 47;<sup>1</sup> English translation from League of Nations, *Treaty Series*, XLVIII, 385-395.

(Translation)

Le Président de la République de Pologne et le Président de la République Tchèque-Slovaque

animés du désir de développer les relations amicales qui unissent les deux Pays,

s'inspirant des principes de la Résolution de l'Assemblée de la Société des Nations en date du 22 Septembre 1922, relative à l'insti-

The President of the Polish Republic and the President of the Czechoslovak Republic,

Being desirous of further developing the friendly relations which unite the two countries,

Being guided by the principles laid down in the Resolution of the Assembly of the League of Nations dated September 22, 1922, concern-

<sup>1</sup> See also League of Nations, *Treaty Series*, XLVIII, 384.

tution des Commissions de Conciliation entre États,

et désirant consacrer le principe de l'arbitrage obligatoire dans leurs rapports réciproques par un accord général visé à l'article 21 du Pacte de la Société des Nations,

ont résolu de conclure un Traité de Conciliation et d'Arbitrage et ont nommé à cet effet pour Leurs Plénipotentiaires, savoir:

Le Président de la République de Pologne:

Mr. Aleksander Skrzyński, docteur en droit, Ministre des Affaires Étrangères.

Le Président de la République Tchécoslovaque:

Mr. Edouard Beneš, docteur en droit, Ministre des Affaires Étrangères,

lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Les Hautes Parties Contractantes s'engagent à soumettre à la procédure de conciliation ou à la procédure d'arbitrage tous les différends qui viendraient à s'élever entre Elles et qui n'auraient pu être résolus par la voie diplomatique dans un délai raisonnable.

Le présent Traité ne s'appliquera pas aux différends pour la solution desquels une procédure spéciale est ou sera prescrite par d'autres conventions entre les Parties Contractantes. Toutefois rien n'empêche les Parties Contractantes d'appliquer même pour ces différends la procédure de conciliation établie par le présent Traité.

Les dispositions du présent Traité ne s'appliquent pas en outre aux questions concernant le Statut territorial des Parties Contractantes.

ing the creation of Commissions of Conciliation between States,

And desiring to embody the principle of compulsory arbitration in their reciprocal relations by a general agreement such as is contemplated by Article 21 of the Covenant of the League of Nations,

Have decided to conclude a Treaty of Conciliation and Arbitration, and have appointed for this purpose as their Plenipotentiaries;

The President of the Polish Republic:

M. Aleksander Skrzyński, Doctor of Laws, Minister for Foreign Affairs;

The President of the Czechoslovak Republic:

M. Edouard Beneš, Doctor of Laws, Minister for Foreign Affairs;

Who, after communicating their full powers found in good and due form, have agreed upon the following provisions.

ARTICLE 1. The High Contracting Parties undertake to submit to the procedure of conciliation or of arbitration all disputes which may arise between them and which it has not been found possible to settle by diplomacy within a reasonable time.

The present Treaty shall not apply to disputes for the solution of which a special procedure has been, or may hereafter be, provided in other Conventions between the Contracting Parties. The Contracting Parties shall not, however, be thereby precluded from also applying to such disputes the conciliation procedure which is provided in the present Treaty.

Furthermore, the provisions of the present Treaty shall not apply to questions regarding the territorial status of the Contracting Parties.

Tout différend susceptible d'être réglé de la manière indiquée ci-dessus sera soumis à la procédure de conciliation, à moins que les Parties ne conviennent de le soumettre immédiatement à l'arbitrage.

Au cas où la procédure de conciliation prévue par le présent Traité n'aboutirait pas, le différend sera soumis à l'arbitrage, si l'une des Parties le demande.

ART. 2. Dans les questions qui, selon la législation interne de l'une des Parties, sont du ressort des autorités judiciaires nationales, cette Partie pourra s'opposer à ce qu'elles soient soumises à une procédure de conciliation ou d'arbitrage, avant que la juridiction nationale compétente se soit prononcée définitivement, sauf le cas de déni de justice.

La demande de conciliation devra, dans ce cas, être formée une année au plus tard à compter du jugement définitif.

ART. 3. Dans les six mois qui suivront l'échange des ratifications du présent Traité, les Parties Contractantes institueront une Commission permanente de Conciliation, composée de cinq membres.

Chaque Partie désignera deux membres: l'un parmi ses propres nationaux, l'autre parmi les ressortissants d'un État tiers. Ce dernier ne doit ni avoir son domicile sur le territoire de la Partie qui l'a nommé, ni se trouver à son service.

Les deux Parties désigneront pour la durée de cinq ans d'un commun accord le Président de la Commission parmi les ressortissants d'un État tiers. A défaut d'entente entre les Parties, il sera désigné, à la requête des Parties,

Any dispute capable of being settled in the manner set forth above shall be submitted to a procedure of conciliation unless the Parties agree to submit it immediately to arbitration.

Should the procedure of conciliation laid down in the present Treaty fail to provide a settlement, the dispute shall be submitted to arbitration, if either of the Parties so requests.

ART. 2. If in accordance with the municipal legislation of one of the Parties, the matter in dispute comes within the jurisdiction of its own national judicial authorities, that Party may decline to have the dispute submitted to the procedure of conciliation or arbitration until its competent national courts have given a final decision, unless the case be one of a denial of justice.

The request for conciliation must in the above case be put forward within one year, at the latest, from the date of the final judgment.

ART. 3. In the six months following the exchange of the ratifications of the present Treaty, the Contracting Parties shall set up a permanent Commission of Conciliation consisting of five members.

Each Party shall appoint two members: one being a national of its own State and the other a national of a third State. The latter must neither be domiciled in the territory of the Party which has appointed him, nor be in the service of that Party.

The two Parties shall jointly appoint a national of a third State as President of the Commission for a period of five years. Should the Parties fail to agree on this choice, the President shall be appointed, at their request, by the President

par le Président du Conseil Fédéral Suisse, s'il y consent.

ART. 4. En cas de décès ou de retraite de l'un des membres de la Commission de Conciliation, il devra être pourvu à son remplacement, si possible dans les trois mois qui suivront, et, en tout cas, aussitôt qu'un différend aura été soumis à la Commission.

Au cas, où l'un des membres de la Commission de Conciliation serait momentanément empêché de prendre part aux travaux de la Commission par suite de maladie ou de toute autre circonstance, la Partie qui l'a nommé désignera un suppléant qui siégera temporairement à sa place.

Les fonctions du Président cessent à la fin de son mandat. Toutefois les deux Parties, d'un commun accord, peuvent renouveler son mandat pour une nouvelle période de cinq ans.

Tant que la procédure n'est pas engagée devant la Commission, chacune des Parties Contractantes a le droit de révoquer les membres nommés par Elle; dans ce cas le membre éliminé sera remplacé sans retard.

ART. 5. Dans un délai de quinze jours à partir de la date où l'une des Parties Contractantes aura porté un différend devant la Commission de Conciliation, chacune des Parties pourra, pour l'examen de ce différend, remplacer le membre national, désigné par Elle, par une personne possédant une compétence spéciale dans la matière.

La Partie qui voudrait user de ce droit, en avertira immédiatement l'autre Partie, celle-ci aura, dans ce cas, la faculté d'user du même

of the Swiss Confederation, provided that he consents to undertake the selection.

ART. 4. In case of the death or withdrawal of one of the members of the Commission of Conciliation, arrangements shall be made to replace that member, if possible within the following three months and in any case as soon as a dispute has been submitted to the Commission.

Should one of the members of the Commission of Conciliation be temporarily prevented, as a result of illness or any other circumstance, from taking part in the work of the Commission, the Party which has appointed him shall choose a substitute who shall replace him temporarily.

The President shall cease to exercise his duties as soon as his term of office expires. The two Parties, however, by common consent, may renew his appointment for a further period of five years.

So long as proceedings have not been opened before the Commission, each Contracting Party shall be entitled to recall the members which it has appointed; in such case the member who has been withdrawn shall be replaced without delay.

ART. 5. Within fifteen days, reckoned from the date on which one of the Contracting Parties has laid a dispute before the Commission of Conciliation, each of the Parties may, for the consideration of this dispute, replace the member who is a national of its own State by a person possessing special competence in the question under consideration.

A Party which desires to avail itself of this right shall immediately inform the other Party, and the latter shall, in such case, be en-

droit dans un délai de quinze jours à partir de la date où l'avertissement lui sera parvenu.

ART. 6. La Commission de Conciliation aura pour tâche de faciliter la solution du différend en éclaircissant, par un examen impartial et consciencieux, les questions de fait et en formulant des propositions en vue du règlement du litige, conformément aux dispositions de l'article 12 du présent Traité.

La Commission sera saisie sur requête adressée à son Président par l'une des Parties Contractantes.

Notification de cette requête sera faite, en même temps, à la Partie adverse par la Partie qui demandera l'ouverture de la procédure de conciliation.

ART. 7. La Commission de Conciliation se réunira, sauf accord contraire, au lieu désigné par son Président.

ART. 8. La procédure devant la Commission de Conciliation sera contradictoire. La Commission réglera elle-même la procédure, en tenant compte, sauf décision contraire prise à l'unanimité, des dispositions contenues au Titre III de la Convention de la Haye du 18 Octobre 1907 pour le règlement pacifique des conflits internationaux.

Les délibérations de la Commission auront lieu à huis clos, à moins que la Commission, d'accord avec les Parties, n'en décide autrement.

ART. 9. Les Parties Contractantes ont le droit de nommer auprès de la Commission des agents spéciaux qui serviront en même

titled to avail itself of the same right within a period of fifteen days, reckoned from the date on which it received notification.

ART. 6. The Commission of Conciliation shall endeavour to facilitate the solution of the dispute by conducting an impartial and conscientious enquiry into the facts, and by formulating proposals for the settlement of the dispute in conformity with the provisions of Article 12 of the present Treaty.

A dispute shall be deemed to have been referred to the Commission when one of the Contracting Parties has made application to its President.

Notification of such application shall at the same time be made to the other Party by the Party which has requested the opening of proceedings of conciliation.

ART. 7. The Commission of Conciliation shall, in the absence of any agreement to the contrary, meet at the place designated by its President.

ART. 8. In proceedings before the Commission of Conciliation both Parties shall be heard. The Commission shall itself determine the procedure, being guided (unless it unanimously decides to the contrary) by the provisions of Chapter III of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

The discussions shall take place in private, unless the Commission, with the assent of the Parties, should decide otherwise.

ART. 9. The Contracting Parties shall be entitled to appoint special agents to be attached to the Commission, who may act at the

temps d'intermédiaires entre Elles et la Commission.

ART. 10. Sauf dispositions contraires du présent Traité, les décisions de la Commission de Conciliation seront prises à la majorité des voix. Chaque membre disposera d'une voix. Si tous les membres ne sont pas présents, la voix du président sera décisive en cas de partage.

La Commission ne pourra prendre des décisions valables que si tous les membres ont été dûment convoqués, c'est-à-dire, si la convocation leur a été régulièrement remise et si le Président et au moins deux autres membres sont présents.

ART. 11. Les Parties Contractantes fourniront à la Commission de Conciliation toutes les informations utiles et lui faciliteront, à tous égards, l'accomplissement de sa tâche.

ART. 12. La Commission de Conciliation présentera son rapport dans les six mois à compter du jour de sa première réunion, à moins que les Parties Contractantes ne décident, d'un commun accord, d'abréger ou de proroger ce délai.

Le rapport comportera, s'il y a lieu, un projet de règlement du différend.

L'avis motivé des membres restés en minorité sera consigné dans le rapport.

Un exemplaire du rapport, signé par le Président, sera remis à chacune des Parties.

Le rapport de la Commission n'aura ni en ce qui concerne l'exposé des faits, ni en ce qui concerne les considérations juridiques, le caractère d'une sentence arbitrale ou judiciaire.

same time as intermediaries between the Contracting Parties and the Commission.

ART. 10. Unless otherwise provided in the present Treaty, the decisions of the Commission of Conciliation shall be taken by a majority vote. Each member shall have one vote. If any member or members are absent and the votes are equally divided, the President shall have a casting vote.

The decisions of the Commission shall not be valid unless all the members were duly convened, *i. e.*, unless the notices to attend were duly delivered to them and unless the President and at least two other members were present.

ART. 11. The Contracting Parties shall supply the Commission of Conciliation with all necessary information and shall facilitate its work in every respect.

ART. 12. The Commission of Conciliation shall submit its report within six months, reckoned from the date of its first meeting, unless the Contracting Parties decide by agreement to shorten or lengthen this period.

The report shall include, if necessary, a draft scheme for the settlement of the dispute.

The opinion of the minority, if any, accompanied by a statement of reasons shall be included in this report.

A copy of the report, signed by the President, shall be communicated to each of the Parties.

The report of the Commission shall not be in the nature of an arbitral or judicial award, either as regards its statement of the facts or of the legal considerations.



ART. 13. Les Parties porteront à leur connaissance réciproque, ainsi qu'à la connaissance du Président de la Commission de Conciliation, dans un délai raisonnable, n'excédant toutefois pas la durée de trois mois, si Elles acceptant les conclusions du rapport et les propositions qui y sont contenues.

Il appartient aux Parties de décider d'un commun accord, si le rapport de la Commission doit être publié.

ART. 14. Pendant la durée effective de la procédure de conciliation le Président et les membres de la Commission toucheront une indemnité dont le montant sera arrêté entre les Parties Contractantes.

Chaque Partie supportera ses propres frais et une partie égale des frais de la Commission.

ART. 15. Au cas, où la Commission de Conciliation n'aboutirait pas à la rédaction d'une proposition relative au règlement du différend dans le délai visé à l'article 12 al. 1 du présent Traité;

au cas, où l'une des Parties Contractantes, ou toutes les deux, n'adopteraient pas les conclusions du rapport de la Commission de Conciliation et les propositions qui y sont contenues;

au cas, où Elles ne se prononceraient pas dans le délai visé à l'art. 13 al. 1 du présent Traité qu'Elles adoptent les conclusions du rapport et les propositions qui y sont contenues;

le différend sera soumis à l'arbitrage et le tribunal d'arbitrage sera établi par l'accord des Parties Contractantes.

A défaut de constitution du tribunal par l'accord des Parties dans un délai de trois mois à compter du jour, où l'une des Parties aura adressé à l'autre la demande d'arbi-

ART. 13. The Parties shall inform each other and the President of the Commission of Conciliation within a reasonable period, which shall not in any case exceed three months, whether they accept the findings of the report and the proposals contained therein.

It will be for the Parties to decide, by agreement, whether the report of the Commission is to be published.

ART. 14. While conciliation proceedings are actually in progress, the President and members of the Commission shall receive allowances on a scale to be determined by the Contracting Parties.

Each Party shall bear its own expenses and an equal share of the expenses of the Commission.

ART. 15. Should the Commission of Conciliation not succeed in framing a proposal for the settlement of the dispute within the period referred to in Article 12, first paragraph, of the present Treaty,

Or should one of the Contracting Parties, or both, fail to adopt the findings of the report of the Commission of Conciliation and the proposals contained therein;

Or should they fail to declare within the period referred to in first paragraph of Article 13 of the present Treaty, that they adopt the proposals in the Report;

The dispute shall be submitted to arbitration, and a Court of Arbitration shall be set up by agreement between the Contracting Parties.

If the Court of Arbitration is not set up by agreement between the Parties within a period of three months reckoned from the date on which one of the Parties has ad-

trage, il sera procédé de la manière suivante;

chaque Partie nommera deux arbitres dont l'un devra être sur la liste des membres de la Cour permanente d'arbitrage et choisi à l'exclusion de ses propres nationaux. Les arbitres ainsi désignés choisiront ensemble le Président du tribunal. En cas de partage des voix, le choix du Président sera confié, à la requête des Parties, au Président du Conseil Fédéral Suisse, s'il y consent.

ART. 16. Lorsqu'il y aura lieu à un arbitrage entre Elles, les Parties Contractantes s'engagent à conclure, dans un délai de trois mois à compter du jour, où l'une des Parties aura adressé à l'autre la demande d'arbitrage, un compromis spécial, déterminant l'objet du différend, les modalités de la procédure et les compétences particulières du Tribunal, ainsi que toutes autres conditions arrêtées entre Elles.

A défaut de clauses compromissaires contrares, Elles se conformeront pour tout ce qui concerne la procédure arbitrale aux dispositions établies par la Convention signée à La Haye le 18 Octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 17. Il est entendu que les obligations assumées par les Parties Contractantes en vertu de la présente Convention n'entravent aucunement leur faculté de soumettre, d'un commun accord, un différend qui aurait pu surgir entre Elles, à la Cour permanente de Justice Internationale à La Haye.

ART. 18. Les dispositions des deux derniers alinéas de l'art. 15, ainsi que celles de l'art. 16, seront

dressed the request for arbitration to the other Party, the following procedure shall be adopted:

Each Party shall appoint two arbitrators, one of whom must be on the list of members of the Permanent Court of Arbitration, but must not be a national of the Party in question. The arbitrators thus appointed shall themselves choose a President of the Court. If the votes are equally divided, the President shall be chosen by the President of the Swiss Federal Council, provided that he consents to undertake the selection.

ART. 16. Whenever a question has to be decided by arbitration, the Contracting Parties undertake to conclude, within three months reckoned from the day on which either Party has addressed a request for arbitration to the other Party, a special agreement defining the object of the dispute, the method of procedure, the special competence of the Court and any other conditions mutually agreed upon.

Unless otherwise provided in the special agreement referred to above, the Contracting Parties shall, as regards arbitration procedure, observe the provisions of the Convention signed at The Hague on October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 17. It is understood that the obligations assumed by the Contracting Parties under the present Convention shall in no way restrict their right to submit, by common agreement, disputes which arise between them to the Permanent Court of International Justice at The Hague.

ART. 18. The provisions of the two last paragraphs of Article 15, and those of Article 16 shall also

également appliquées, lorsque, en vertu de l'art. 1 al. 4, le différend sera soumis immédiatement à l'arbitrage.

ART. 19. Lorsque le Tribunal d'arbitrage ou la Cour permanente de Justice Internationale sont appelés à décider sur un différend soumis à eux, ils appliqueront, sauf accord contraire des Parties:

(1) les conventions internationales, soit générales, soit spéciales, établissant des règles expressément reconnues par les États en litige;

(2) la coutume internationale comme preuve d'une pratique générale acceptée comme étant le droit;

(3) les principes généraux de droit reconnus par les nations civilisées;

(4) sous réserve de la disposition de l'article 59 du Statut de la Cour Permanente, les décisions judiciaires et la doctrine des publicistes les plus qualifiés, comme moyen auxiliaire de détermination des règles de droit.

ART. 20. Les dispositions de l'art. 14 seront appliquées respectivement au Tribunal d'arbitrage.

ART. 21. La sentence arbitrale, de même que la sentence de la Cour Permanente de Justice Internationale, est obligatoire et doit être exécutée de bonne foi par les Parties.

Si, toutefois, la sentence établissait qu'une décision d'une instance judiciaire ou de toute autre autorité relevant de l'une des Parties Contractantes se trouve entièrement ou partiellement en opposition avec une règle du droit international universellement reconnue,

apply when, in virtue of fourth paragraph of Article 1 a dispute has been immediately submitted to arbitration by the Contracting Parties.

ART. 19. When the Court of Arbitration, or the Permanent Court of International Justice, are called upon to decide a dispute submitted to them, they shall, unless otherwise provided by agreement between the Parties, apply:

(1) International Conventions, either general or partial, laying down rules which have been expressly recognised by the States parties to the dispute;

(2) International custom, as evidence of a general usage which is accepted as being the law;

(3) The general principles of law recognised by civilised nations;

(4) Subject to the provisions of Article 59 of the Statute of the Permanent Court, the judicial decisions and opinions of the best qualified legal experts, as auxiliary means of determining the rules of law.

ART. 20. The provisions of Article 14 shall also apply to the Court of Arbitration.

ART. 21. The arbitral award, as well as the award of the Permanent Court of International Justice, shall be binding and must be loyally carried out by both Parties.

If, however, the award establishes the fact that the decision of some judicial or other authority of one of the Contracting Powers is entirely or partially at variance with the universally recognised rules of International Law, and if the municipal law of that Party precludes the annulment, or only

et si le droit interne de cette Partie ne permettait d'effacer ou de n'effacer qu'imparfaitement par voie administrative les conséquences de la décision dont il s'agit, il sera accordé à la Partie lésée une satisfaction équitable d'un autre ordre.

En cas de contestation sur le sens ou la portée de la sentence, il appartient au Tribunal qui l'a rendue de l'interpréter à la demande de chacune des Parties.

ART. 22. Pendant la procédure de Conciliation ou d'arbitrage les Parties Contractantes s'abstiendront de tout acte pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission de Conciliation ou sur l'exécution de la sentence arbitrale.

ART. 23. Il est entendu que le présent Traité n'apportera aucune modification aux obligations des États signataires, fondées sur le Protocole pour le règlement pacifique des différends internationaux, adopté à Genève le 2 Octobre 1924.

ART. 24. Tout différend relatif à l'interprétation du présent Traité sera soumis à la Cour Permanente de Justice internationale.

ART. 25. Le présent Traité sera ratifié aussitôt que faire se pourra, et les instruments de ratification en seront échangés à Prague.

Il entrera en vigueur le trentième jour après l'échange des ratifications et aura une durée de cinq ans.

S'il n'est pas dénoncé six mois avant son échéance, il sera censé d'être renouvelé pour une nouvelle période de cinq ans et ainsi de suite.

En foi de quoi les Plénipotentiaires ont signé le présent Traité et

allows of a partial annulment through administrative channels of the effects of such a decision, the injured Party shall be accorded equitable satisfaction in some other manner.

Should any difficulty arise regarding the meaning or scope of an award, the tribunal which has rendered the award shall interpret its meaning, if either Party so requests.

ART. 22. While the procedure of conciliation or arbitration is in progress, the Contracting Parties shall refrain from any act which may tend to hinder acceptance of the proposals of the Commission of Conciliation or the execution of the arbitral award.

ART. 23. It is understood that the present Treaty shall in no way modify the obligations of the signatory States which are based on the Protocol for the Pacific Settlement of International Disputes, adopted at Geneva on October 2, 1924.

ART. 24. Any dispute regarding the interpretation of the present Treaty shall be submitted to the Permanent Court of International Justice.

ART. 25. The present Treaty shall be ratified as soon as possible, and the instruments of ratification shall be exchanged at Prague.

It shall come into force on the thirtieth day after the date of its ratification, and shall remain in force for five years.

If it has not been denounced six months before the date of its expiration, it shall be held to have been renewed for a further period of five years, and so on for successive periods.

In faith whereof the Plenipotentiaries have signed the present

y ont apposé leurs cachets.

Fait à Varsovie, en double exemplaire, le 23 Avril 1925.

Al. Skrzyński  
Dr. Edvard Beneš

Treaty and have affixed their seals thereto.

Done at Warsaw, in duplicate, April 23, 1925.

Al. Skrzyński  
Dr. Edvard Beneš

#### FINAL PROTOCOL

(1) En se référant à l'article premier, alinéa trois, les Hautes Parties Contractantes sont d'accord que les divergences d'opinion, qui pourraient s'élever sur l'opportunité d'une modification quelconque de leur statut territorial, ne constituent pas un différend susceptible d'être réglé par un autre moyen que par un Accord librement consenti entre Elles, et que, par conséquent, il n'est pas à prévoir un organe quelconque compétent de s'occuper desdites divergences.

(2) Si une procédure de conciliation ou d'arbitrage, en vertu du présent Traité, se trouve engagée au jour, où il cesse d'être en vigueur, cette procédure sera continuée conformément aux dispositions dudit Traité ou de tout autre traité par lequel les Hautes Parties Contractantes auraient remplacé le présent Traité.

(3) Le présent Protocole fait partie intégrante du Traité de Conciliation et d'Arbitrage signé le même jour.

A Varsovie, le 23 Avril 1925.

Al. Skrzyński  
Dr. Edvard Beneš

(1) With regard to the third paragraph of Article 1, the High Contracting Parties agree that any difference of opinion as to the desirability of modifying in any way their territorial status, constitutes a form of dispute such as is only capable of settlement by an agreement, freely entered into between themselves, and that, consequently, there is no occasion to provide for an organ competent to deal with such cases.

(2) In case proceedings for conciliation and arbitration under the present Treaty are being conducted on the date on which the Treaty ceases to be in force, such proceedings shall be continued in conformity with the provisions of this Treaty or any other treaty by which the High Contracting Parties may have replaced the present Treaty.

(3) The present Protocol shall form an integral part of the Treaty for conciliation and arbitration signed on this day.

Warsaw, April 23, 1925.

Al. Skrzyński  
Dr. Edvard Beneš

#### PERMANENT COMMISSION OF CONCILIATION

*President appointed by both Parties*

JULES JUSSERAND, former Minister for Foreign Affairs. (*French.*)

*Members appointed by Czechoslovakia*

VACLAV HORA. (*Czechoslovakian.*) GREGOR VAZILJEV. (*Bulgarian.*)

*Members appointed by Poland*

STANISLAUS WROBLEWSKI. (*Polish.*) DJORDJE DJURIC. (*Jugoslavian.*)

## No. 40

## ESTONIA-SWEDEN: TREATY OF CONCILIATION

Signed at Tallinn (Reval) May 29, 1925; ratifications exchanged February 25, 1926.

Original text from Sweden, *Överenskommelser med främmande makter*, 1926, No. 3;<sup>1</sup>  
English translation from League of Nations, *Treaty Series*, XLVI, 291-297.

(Translation)

Sa Majesté le Roi de Suède et le Chef d'Etat de la République d'Esthonie,

animés du désir de favoriser le développement de la procédure de conciliation des différends internationaux dans un esprit conforme au Pacte de la Société des Nations,

décidés à réaliser, dans les rapports entre les deux Etats, les principes de la résolution de l'Assemblée de la Société des Nations en date du 22 septembre 1922, tendant à l'institution de commissions de conciliation par voie de conventions entre les Etats.

ont résolu de conclure à cet effet une Convention et ont nommé Leurs plénipotentiaires, savoir:

Sa Majesté le Roi de Suède:

Monsieur Ulf Torsten Undén,  
Son Envoyé Extraordinaire et Ministre Plénipotentiaire à Tallinn, et le Chef d'Etat de la République d'Esthonie:

Monsieur Charles Robert Pusta,  
Ministre des Affaires Etrangères, lesquels, dûment autorisés à cet effet, sont convenus des articles suivants.

ARTICLE 1<sup>er</sup>. Les Parties contractantes s'engagent à soumettre, aux fins d'enquête et de conciliation, à une Commission permanente, constituée dans les conditions prévues ci-dessous, tous différends, de quel-

His Majesty the King of Sweden and the Chief of State of the Estonian Republic, being desirous of promoting the development of the procedure of conciliation in international disputes in accordance with the spirit of the Covenant of the League of Nations, and of carrying into effect the principles laid down with this object in the resolution regarding the conclusion of conciliation Conventions which were adopted by the Assembly of the League of Nations on September 22, 1922, have for this purpose agreed to conclude a Convention, and have named as their Plenipotentiaries:

His Majesty the King of Sweden:

Monsieur Ulf Torsten Undén,  
His Envoy Extraordinary and Minister Plenipotentiary at Tallinn;

The Chief of State of the Estonian Republic:

Monsieur Charles Robert Pusta,  
Minister for Foreign Affairs;

Who, being duly authorised for the purpose, have agreed on the following articles:

ARTICLE 1. The Contracting Parties undertake to refer to a Permanent Commission, to be appointed in the manner set forth below, for investigation and settlement by conciliation, all disputes

que nature qu'ils soient, qui n'auraient pu être résolus par la voie diplomatique dans un délai raisonnable et qui ne doivent pas être déferés, aux termes, soit du Statut de la Cour Permanente de Justice Internationale, soit de tout autre accord conclu entre Elles, à la dite Cour ou à un tribunal d'arbitrage.

ART. 2. Si un différend, dont l'une des Parties a saisi la Commission, est porté par l'autre Partie, conformément aux dispositions visées à l'article 1<sup>er</sup>, devant la Cour Permanente ou un tribunal d'arbitrage, la Commission suspendra l'examen du différend jusqu'à ce que la Cour ou le tribunal ait statué sur la compétence.

ART. 3. S'il s'agit d'un différend qui, à teneur de la législation interne de l'une des Hautes Parties Contractantes, relève de la compétence des tribunaux, les tribunaux administratifs y compris, la Partie défenderesse pourra s'opposer à ce qu'il soit soumis à une procédure d'enquête ou de conciliation avant qu'un jugement définitif ait été rendu par l'autorité judiciaire compétente.

ART. 4. La Commission se compose de cinq membres. Chaque Etat en désigne deux, dont l'un peut être choisi parmi ses propres nationaux. Le cinquième, qui remplit les fonctions de Président, doit appartenir à une autre nationalité qu'à celles des autres membres de la Commission. Le Président est désigné d'un commun accord par les Parties. Au cas où cet accord ne pourrait s'établir, sa nomination sera effectuée à la requête de l'une des Parties, par le Président de la

of any nature whatever which it has not been possible to settle within reasonable time through diplomatic channels, and which cannot, under the terms of the Statute of the Permanent Court of International Justice or of any other agreement between the Parties, be submitted either to the Permanent Court or to a court of arbitration.

ART. 2. When a dispute, which has been referred to the Commission by one of the Parties, has been brought before the Permanent Court or a court of arbitration by the other Party under the terms of Article 1, the Commission shall postpone its investigation of the dispute until the Permanent Court or the court of arbitration shall have determined the question of competence in the case.

ART. 3. In the case of a dispute which, in accordance with the domestic legislation of either of the High Contracting Parties, falls within the jurisdiction of the courts, including administrative courts, the defending Party may decline to accept any procedure of enquiry or conciliation until such times as final judgment has been given on the dispute by the competent legal authorities.

ART. 4. The Commission shall be composed of five members. Each Party shall appoint two members, one of whom may be a national of the appointing State. The fifth member, who shall act as Chairman of the Commission, shall be a national of a State not otherwise represented on the Commission. He shall be appointed jointly by the Parties. Should the Parties be unable to agree the Chairman shall, at the request of one of the Parties, be appointed by the President of

Cour Permanente de Justice Internationale ou, si celui-ci est ressortissant d'un des Etats contractants, par le Vice-Président de la Cour.

La Commission devra être constituée dans les six mois qui suivront l'échange des ratifications de la présente Convention.

ART. 5. Les membres de la Commission sont nommés pour trois ans. Sauf accord contraire entre les Parties, ils ne pourront pas être révoqués pendant la durée de leur mandat. En cas de décès ou de retraite de l'un d'eux il devra être pourvu à son remplacement pour le reste de la durée de son mandat, si possible dans les deux mois qui suivront et, en tout cas, aussitôt qu'un différend aura été soumis à la Commission.

ART. 6. Dans un délai de quinze jours, à dater de celui où l'un des Etats contractants aura porté un différend devant la Commission, chacune des Parties pourra, pour l'examen du litige visé, remplacer l'un des membres désignés par Elle par une personne possédant une compétence spéciale dans la matière, sous réserve, toutefois, de la règle stipulée à l'article 4 concernant la nationalité des membres de la Commission.

La Partie qui voudrait user de ce droit, en avertira immédiatement la Partie adverse; dans ce cas, celle-ci a la faculté d'user du même droit, dans un délai de quinze jours à partir de celui où l'avertissement lui est parvenu.

ART. 7. Si, à l'expiration du mandat d'un membre, il n'est pas pourvu à son remplacement, son mandat est censé renouvelé pour une période de trois ans; toutefois,

the Permanent Court of International Justice, or, should the latter be a national of one of the Contracting States, by the Vice-President of the Court.

The Commission shall be appointed within six months after the ratifications of the present Convention have been exchanged.

ART. 5. The members of the Commission shall be appointed for three years. They shall not be removable during their period of office unless the Parties agree otherwise. In the event of the death or retirement of a member, the vacancy must be filled for the remainder of his term of office within the next two months if possible, but, in any case, as soon as a dispute has been submitted to the Commission.

ART. 6. Either of the Parties may, within fifteen days<sup>1</sup> after one of them has submitted a dispute to the Commission, replace one of the members whom it has appointed by a person specially qualified to deal with the particular case before the commission, subject, however, to the rules laid down in Article 4 with regard to the nationality of members.

If one Party desires to avail itself of this right, it shall at once inform the other Party, which may take a similar step within fourteen days<sup>1</sup> of receiving such notification.

ART. 7. If, at the end of his term of office, a member of the Commission has not been replaced, his term shall be considered as renewed for a period of three years. The Chair-

<sup>1</sup> These are dissimilar renderings of the same term in the original, 'quinze jours' - 'a fortnight.'



sur la demande de l'une des Parties, les fonctions du Président doivent cesser à la fin de son mandat.

Un membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part à l'examen du différend jusqu'à ce que la procédure soit terminée, nonobstant le fait que son remplaçant ait été désigné.

ART. 8. Les différends sont portés devant la Commission par la notification qui en est faite par l'une des Parties au Président de la Commission. Cette notification doit être portée immédiatement à la connaissance de la Partie adverse. Le Président doit convoquer la Commission dans le plus bref délai.

La Partie ayant saisi la Commission du différend en avisera le Secrétaire général de la Société des Nations.

ART. 9. La Commission se réunit dans l'endroit que les Parties désignent d'un commun accord ou, à défaut d'accord, au Siège de la Société des Nations.

ART. 10. Les Parties s'engagent à fournir à la Commission toutes les informations utiles et à lui faciliter, à tous égards, l'accomplissement de sa tâche.

La Commission pourra demander au Secrétaire général de la Société des Nations l'assistance du Secrétariat, si la Commission en a besoin pour ses travaux.

ART. 11. Les Parties ont le droit de nommer des agents spéciaux auprès de la Commission qui devront en même temps servir d'intermédiaires entre Elles et la Commission.

ART. 12. Les débats devant la Commission ne sont publics que si

man, however, shall at the request of one of the Parties, cease to hold office at the end of his appointed term.

If a member's term of office expires in the course of proceedings in connection with a dispute, he shall continue to take part in such proceedings until the dispute has been settled, even if his substitute has been appointed.

ART. 8. When one of the Parties desires to submit a dispute to the Commission, it shall notify the Chairman. The other Party shall also be informed at once of such notification. The Chairman shall convene the Commission as soon as possible.

The Party which has submitted the dispute to the Commission shall notify the Secretary-General of the League of Nations.

ART. 9. The Commission shall meet at a place selected by agreement between the Parties or, in the absence of such agreement, at the seat of the League of Nations.

ART. 10. The Parties shall supply the Commission with all relevant information, and shall assist it in every way in the accomplishment of its task.

The Commission may apply to the Secretary-General of the League of Nations for the assistance of the Secretariat should such assistance be required.

ART. 11. The Parties shall be entitled to appoint special representatives on the Commission. These representatives shall also act as intermediaries between the Parties and the Commission.

ART. 12. Proceedings before the Commission shall not be public un-

la Commission, d'accord avec les Parties, en décide ainsi.

ART. 13. La procédure devant la Commission est contradictoire.

La Commission réglera elle-même la procédure, en tenant compte, à défaut d'une décision contraire prise à l'unanimité, des dispositions contenues au titre III de la Convention de la Haye pour le règlement pacifique des conflits internationaux, du 18 octobre 1907.

ART. 14. Sous réserve des dispositions contraires de la présente Convention, les décisions de la Commission sont prises à la majorité simple. Chaque membre dispose d'une voix, celle du Président étant décisive en cas de partage. La Commission peut délibérer valablement si tous les membres ont été dûment convoqués et si le Président et au moins deux autres membres sont présents.

ART. 15. La Commission fera un rapport sur chaque différend qui lui a été soumis. Le rapport comportera un projet de règlement du différend, si les circonstances y donnent lieu et si trois au moins des membres de la Commission se mettent d'accord sur un tel projet.

L'avis motivé des membres restés en minorité sera consigné dans le rapport.

ART. 16. Sous réserve du droit des Parties de prolonger ce délai, la Commission doit achever ses travaux dans un délai de six mois, à dater du jour où le différend a été porté devant la Commission.

Le temps durant lequel les travaux de la Commission sont sus-

less a decision to that effect is taken by the Commission with the consent of the Parties.

ART. 13. In proceedings before the Commission both Parties shall be heard.

The Commission shall draw up rules to govern its procedure, subject to the proviso that the regulations laid down in Chapter III of The Hague Convention of October 18, 1907, for the pacific settlement of international disputes shall be applied unless the Commission unanimously agrees to depart from these regulations.

ART. 14. Unless otherwise provided in the present Convention the Commission shall take its decisions by a majority vote of its members. Each member shall have one vote, and in the case of an equal number of votes being given, the Chairman shall have a casting vote.

A quorum shall be constituted if all the members have been duly summoned and if the Chairman and not fewer than two other members are present.

ART. 15. The Commission shall make a report on each dispute submitted to it. The report shall include a proposal for the settlement of the dispute if a settlement is possible and if at least three members agree to the proposal.

The opinion of the members who are in the minority together with a statement of the reasons for this opinion shall be recorded in the report.

ART. 16. The Commission shall complete its task within six months from the day when the dispute is submitted to it, unless the Parties agree to an extension of this period.

The above period shall not include any time during which the Commission's work is interrupted

pendus selon les dispositions de l'article 2 n'est pas compris dans le délai susmentionné.

ART. 17. Le rapport de la Commission est signé par le Président et porté sans délai à la connaissance des Parties et du Secrétaire général de la Société des Nations.

Les Parties s'engagent à porter à Leur connaissance réciproque dans un délai raisonnable si Elles acceptent les constatations du rapport et les propositions qu'il renferme.

Il appartient aux Parties de décider, d'un accord commun, si le rapport de la Commission doit être publié immédiatement. Toutefois, même à défaut de cet accord, la Commission pourra, en cas de raisons spéciales, procéder à la publication immédiate du rapport sur décision prise à l'unanimité des voix ou contre une seule voix dissidente.

ART. 18. Chacune des Parties indemniserà les membres de la Commission nommés par Elle et fournira la moitié de l'indemnité du Président.

Les Parties doivent chercher à s'entendre pour que, des deux côtés, les indemnités des membres de la Commission soient fixées d'après les mêmes chiffres.

Chaque Partie supportera les frais de procédure encourus par Elle et la moitié de ceux déclarés communs par la Commission.

ART. 19. La présente convention sera ratifiée et les ratifications seront échangées à Tallinn aussitôt que faire se pourra. Elle entrera en vigueur immédiatement après l'échange des ratifications et aura une durée de cinq années à dater de l'échange des ratifications. Si elle n'a pas été dénoncée six mois au

for reasons arising out of the provisions of Article 2.

ART. 17. The Commission's report shall be signed by the Chairman, who shall immediately bring it to the knowledge of the Parties and of the Secretary-General of the League.

The Parties undertake to inform each other within a reasonable time whether they accept the findings of the report and the settlement proposed therein.

The Parties shall decide, in agreement with one another, whether the Commission's report shall be published immediately. Nevertheless, even in the absence of such agreement, the Commission may proceed to the immediate publication of the report if it takes a decision to that effect by a vote of all its members or of all its members with a single exception.

ART. 18. Each Party shall pay the allowances of the members of the Commission which it has appointed, and shall also pay half of the allowances of the Chairman.

The Parties shall endeavour to arrange that the allowances of the members of the Commission on both sides shall be fixed at the same figure.

Each Party shall bear the costs of the proceedings which it has incurred, and half of those which the Commission may declare to be joint costs.

ART. 19. The present Convention shall be ratified and the ratifications shall be exchanged at Tallinn as soon as possible. It shall come into force as soon as the instruments of ratification have been exchanged, and shall remain in force for five years from that date. Unless denounced within six

moins avant l'expiration de ce délai, elle restera en vigueur pendant une nouvelle période de cinq ans et sera ainsi de suite censée renouvelée chaque fois pour cinq ans, sauf dénonciation six mois au moins avant l'expiration de la précédente période de cinq ans.

En foi de quoi les plénipotentiaires respectifs ont signé la présente convention et y ont apposé leurs cachets.

Fait à Tallinn, en deux exemplaires, le 29 mai 1925.

Undén  
C. R. Pusta

months before the expiration of this period, it shall remain in force for a further period of five years and shall thereafter be regarded as renewed for successive periods of five years unless denounced within six months before the expiration of the preceding period of five years.

In faith whereof the Plenipotentiaries have signed the present Convention and thereto affixed their seals.

Done in duplicate, at Tallinn, on May 29, 1925.

Undén  
C. R. Pusta

#### PERMANENT COMMISSION OF CONCILIATION

(Appointed September 1, 1926)

##### *President appointed by both Parties*

PAUL LOGOZ, Professor at the University of Geneva, Chairman of the German-Jugoslav Mixed Arbitral Tribunal. (*Swiss.*)

##### *Members appointed by Estonia*

OTTO STRANDMAN, Minister for Foreign Affairs of Estonia, former Prime Minister of Estonia. (*Estonian.*)

ARVED BERG, former Minister of the Interior of Latvia. (*Latvian.*)

##### *Members appointed by Sweden*

EMIL F. K. SOMMARIN, Professor at the University of Lund. (*Swedish.*)

PAUL IVAR PAULSEN, Judge of the Supreme Court of Norway. (*Norwegian.*)

### No. 41

#### LITHUANIA-SWEDEN: TREATY OF CONCILIATION

Signed at Kaunas (Kovno) June 11, 1925; ratifications exchanged October 29, 1926.

Original text from Sweden, *Överenskommelser med främmande makter*, 1926, No. 37;<sup>1</sup> English translation from League of Nations, *Treaty Series*, LVII, 193-199.

##### *(Translation)*

Sa Majesté le Roi de Suède et le Président de la République de Lithuanie,

animés du désir de favoriser le développement de la procédure de

His Majesty the King of Sweden and the President of the Lithuanian Republic, being desirous of promoting the development of the procedure of conciliation in inter-

<sup>1</sup> See also League of Nations, *Treaty Series*, LVII, 192.

conciliation des différends internationaux dans un esprit conforme au Pacte de la Société des Nations,

décidés à réaliser, dans les rapports entre les deux Etats, les principes de la résolution de l'Assemblée de la Société des Nations en date du 22 septembre 1922, tendant à l'institution de commissions de conciliation par voie de conventions entre les Etats,

ont résolu de conclure à cet effet une Convention et ont nommé Leurs plénipotentiaires, savoir:

Sa Majesté le Roi de Suède:

Monsieur Ulf Torsten Undén, Envoyé Extraordinaire et Ministre Plénipotentiaire de Sa Majesté le Roi de Suède à Kaunas, et

le Président de la République de Lithuanie:

Monsieur Voldemaras Čarneckis, Ministre des Affaires Etrangères,

lesquels, dûment autorisés à cet effet, sont convenus des articles suivants.

ARTICLE 1<sup>er</sup>. Les Parties contractantes s'engagent à soumettre, aux fins d'enquête et de conciliation, à une Commission permanente, constituée dans les conditions prévues ci-dessous, tous différends, de quelque nature qu'ils soient, qui n'auraient pu être résolus par la voie diplomatique dans un délai raisonnable et qui ne doivent pas être déferés, aux termes, soit du Statut de la Cour Permanente de Justice Internationale, soit de tout autre accord conclu entre Elles, à la dite Cour ou à un tribunal d'arbitrage.

ART. 2. Si un différend, dont l'une des Parties a saisi la Commission, est porté par l'autre Partie, conformément aux dispositions visées à l'article 1<sup>er</sup>, devant la Cour

national disputes in accordance with the spirit of the Covenant of the League of Nations, and being desirous of carrying into effect, in their mutual relations, the principles laid down for this purpose in the resolution regarding the conclusion of inter-State conciliation Conventions which was adopted by the Assembly of the League on September 22nd, 1922, have for this purpose agreed to conclude a Convention, and have appointed as their Plenipotentiaries the following:

His Majesty the King of Sweden:

M. Ulf Torsten Undén, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of Sweden at Kovno; and

The President of the Lithuanian Republic:

M. Voldemaras Čarneckis, Minister for Foreign Affairs;

Who, having been duly provided with full powers for that purpose, have agreed upon the following Articles.

ARTICLE I. The Contracting Parties undertake to refer to a Permanent Commission, to be appointed in the manner set forth below, for investigation and settlement by conciliation, all disputes of any nature whatever which it has not been possible to settle within reasonable time by diplomacy and which, under the terms of the Statute of the Permanent Court of International Justice or of any other agreement between the Parties, cannot be submitted either to the Permanent Court or to a Court of arbitration.

ART. 2. When a dispute, which has been referred to the Commission by one of the Parties, has been brought before the Permanent Court or a Court of arbitration by

Permanente ou un tribunal d'arbitrage, la Commission suspendra l'examen du différend jusqu'à ce que la Cour ou le tribunal ait statué sur la compétence.

ART. 3. La Commission se compose de cinq membres. Chaque Etat en désigne deux, dont l'un peut être choisi parmi ses propres nationaux. Le cinquième, qui remplit les fonctions de Président, doit appartenir à une autre nationalité qu'à celles des autres membres de la Commission. Le Président est désigné d'un commun accord par les Parties. Au cas où cet accord ne pourrait s'établir, sa nomination sera effectuée, à la requête de l'une des Parties, par le Président de la Cour Permanente de Justice Internationale ou, si celui-ci est ressortissant d'un des Etats contractants, par le Vice-Président de la Cour.

La Commission devra être constituée dans les six mois qui suivront l'échange des ratifications de la présente Convention.

ART. 4. Les membres de la Commission sont nommés pour trois ans. Sauf accord contraire entre les Parties, ils ne pourront pas être révoqués pendant la durée de leur mandat. En cas de décès ou de retraite de l'un d'eux il devra être pourvu à son remplacement pour le reste de la durée de son mandat, si possible dans les deux mois qui suivront et, en tout cas, aussitôt qu'un différend aura été soumis à la Commission.

ART. 5. Dans un délai de quinze jours, à dater de celui où l'un des Etats contractants aura porté un différend devant la Commission, chacune des Parties pourra, pour l'examen du litige visé, remplacer

the other Party under the terms of Article 1, the Commission shall postpone its investigation of the dispute until the Permanent Court or the Court of arbitration shall have determined the question of competence in the case.

ART. 3. The Commission shall be composed of five members. Each Party shall appoint two members, one of whom may be a national of the appointing State. The fifth member, who shall act as chairman of the Commission, shall be a national of a State not otherwise represented on the Commission. He shall be appointed jointly by the Parties. Should the Parties be unable to agree, the chairman shall, at the request of one of the Parties, be appointed by the President of the Permanent Court of International Justice or, should the latter be a national of one of the Contracting States, by the Vice-President of the Court.

The Commission shall be appointed within six months after the ratifications of the present Convention have been exchanged.

ART. 4. The members of the Commission shall be appointed for three years. They shall be irremovable during their period of office unless the Parties agree otherwise. In the event of the death or retirement of a member, the vacancy must be filled for the remainder of his term of office within the next two months, if possible, but in any case as soon as a dispute has been submitted to the Commission.

ART. 5. Either of the Parties may, within fifteen days after one of them has submitted a dispute to the Commission, replace one of the members whom it has appointed by a person specially qualified to deal

l'un des membres désignés par Elle par une personne possédant une compétence spéciale dans la matière, sous réserve, toutefois, de la règle stipulée à l'article 3 concernant la nationalité des membres de la Commission.

La Partie qui voudrait user de ce droit, en avertira immédiatement la Partie adverse; dans ce cas, celle-ci a la faculté d'user du même droit, dans un délai de quinze jours à partir de celui où l'avertissement Lui est parvenu.

ART. 6. Si, à l'expiration du mandat d'un membre, il n'est pas pourvu à son remplacement, son mandat est censé renouvelé pour une période de trois ans; toutefois, sur la demande de l'une des Parties, les fonctions du Président doivent cesser à la fin de son mandat.

Un membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part à l'examen du différend jusqu'à ce que la procédure soit terminée, nonobstant le fait que son remplaçant ait été désigné.

ART. 7. Les différends sont portés devant la Commission par la notification qui en est faite par l'une des Parties au Président de la Commission. Cette notification doit être portée immédiatement à la connaissance de la Partie adverse. Le Président doit convoquer la Commission dans le plus bref délai.

La Partie ayant saisi la Commission du différend en avisera le Secrétaire général de la Société des Nations.

ART. 8. La Commission se réunit au siège de la Société des Nations, à moins que les Parties ne lui aient assigné, dans un cas particulier, un autre lieu de réunion.

with the particular case before the Commission, subject, however, to the rules laid down in Article 3 with regard to the nationality of members.

If one Party desires to avail itself of this right, it shall at once inform the other Party, which may take a similar step within fifteen days of receiving such notification.

ART. 6. If, at the end of his term of office, a member of the Commission has not been replaced, his term shall be considered as renewed for a period of three years. The chairman, however, shall, at the request of one of the Parties, cease to hold office at the end of his appointed term.

If a member's term of office expires in the course of proceedings in connection with a dispute, he shall continue to take part in such proceedings until the dispute has been settled, even if his successor has been appointed.

ART. 7. When one of the Parties desires to submit a dispute to the Commission, it shall notify the chairman. The other Party shall also be informed at once of such notification. The chairman shall convene the Commission as soon as possible.

The Party which has submitted the dispute to the Commission shall notify the Secretary-General of the League of Nations.

ART. 8. The Commission shall meet at the seat of the League of Nations unless, in special cases, the Parties decide otherwise.

ART. 9. Les Parties s'engagent à fournir à la Commission toutes les informations utiles et à lui faciliter, à tous égards, l'accomplissement de sa tâche.

La Commission pourra demander au Secrétaire général de la Société des Nations l'assistance du Secrétariat, si la Commission en a besoin pour ses travaux.

ART. 10. Les Parties ont le droit de nommer des agents spéciaux auprès de la Commission qui devront en même temps servir d'intermédiaires entre Elles et la Commission.

ART. 11. Les débats devant la Commission ne sont publics que si la Commission, d'accord avec les Parties, en décide ainsi.

ART. 12. La procédure devant la Commission est contradictoire.

La Commission réglera elle-même la procédure, en tenant compte, à défaut d'une décision contraire prise à l'unanimité, des dispositions contenues au titre III de la Convention de La Haye pour le règlement pacifique des conflits internationaux, du 18 octobre 1907.

ART. 13. Sous réserve des dispositions contraires de la présente Convention, les décisions de la Commission sont prises à la majorité simple. Chaque membre dispose d'une voix, celle du Président étant décisive en cas de partage. La Commission peut délibérer valablement si tous les membres ont été dûment convoqués et si le Président et au moins deux autres membres sont présents.

ART. 14. La Commission fera un rapport sur chaque différend

ART. 9. The Parties shall supply the Commission with all the information which may be useful, and shall in every respect assist it in the accomplishment of its task.

The Commission may apply to the Secretary-General of the League of Nations for the assistance of the Secretariat, if it requires such assistance.

ART. 10. The Parties shall be entitled to appoint special representatives on the Commission. These representatives shall also act as intermediaries between the Parties and the Commission.

ART. 11. Proceedings before the Commission shall not be public unless the Commission so decides and the Parties agree.

ART. 12. In proceedings before the Commission both Parties shall be heard.

The Commission shall draw up rules to govern its procedure, subject to the proviso that the regulations laid down in Chapter III of the Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes shall be applied unless the Commission unanimously agrees to depart from these regulations.

ART. 13. The Commission shall take its decisions by a majority vote of its members except where otherwise laid down in the present Convention. Each member shall have one vote, and in the case of an equality of votes the chairman shall have a casting vote. The Commission may take valid decisions if all the members have been duly summoned, and if the chairman and not fewer than two other members are present.

ART. 14. The Commission shall report on every dispute submitted



qui lui a été soumis. Le rapport comportera un projet de règlement du différend, si les circonstances y donnent lieu et si trois au moins des membres de la Commission se mettent d'accord sur un tel projet.

L'avis motivé des membres restés en minorité sera consigné dans le rapport.

ART. 15. Sous réserve du droit des Parties de prolonger ce délai, la Commission doit achever ses travaux dans un délai de six mois, à dater du jour où le différend a été porté devant la Commission.

Le temps durant lequel les travaux de la Commission sont suspendus selon les dispositions de l'article 2 n'est pas compris dans le délai susmentionné.

ART. 16. Le rapport de la Commission est signé par le Président et porté sans délai à la connaissance des Parties et du Secrétaire général de la Société des Nations.

Les Parties s'engagent à porter à Leur connaissance réciproque, dans un délai raisonnable, si Elles acceptent les constatations du rapport et les propositions qu'il renferme.

Il appartient aux Parties de décider, d'un commun accord, si le rapport de la Commission doit être publié immédiatement. Toutefois, même à défaut de cet accord, la Commission pourra, en cas de raisons spéciales, procéder à la publication immédiate du rapport.

ART. 17. Chacune des Parties indemniserà les membres de la Commission nommés par Elle et fournira la moitié de l'indemnité du Président.

Les Parties doivent chercher à s'entendre pour que, des deux côtés, les indemnités des membres de la Commission soient fixées d'après les mêmes chiffres.

to it. The report shall include a proposal for the settlement of the dispute if a settlement is possible and if at least three members agree to the proposals.

The reasoned opinion of the members who are in the minority shall be recorded in the report.

ART. 15. The Commission shall complete its task within six months from the day when the dispute is submitted to it, unless the Parties agree to an extension of this period.

The above period shall not include any time during which the Commission's work is interrupted for reasons arising out of the provisions of Article 2.

ART. 16. The Commission's report shall be signed by the President, who shall immediately bring it to the knowledge of the Parties and of the Secretary-General of the League.

The Parties undertake to inform each other within reasonable time as to whether they approve the findings of the report and accept the settlement proposed therein.

The Parties shall decide by mutual agreement whether the Commission's report shall be published immediately after it has been issued. In special circumstances, however, the Commission may decide that the report shall be published at once, even in the absence of such an agreement.

ART. 17. Each Party shall pay the allowances of the members of the Commission which it has appointed, and shall also pay half of the allowances of the chairman.

The Parties shall endeavour to arrange that the allowances of the members of the Commission on both sides shall be fixed at the same figure.

Chaque Partie supportera les frais de procédure encourus par Elle et la moitié de ceux déclarés communs par la Commission.

Each Party shall bear the costs of procedure which it has incurred, and half of those which the Commission may declare to be joint costs.

ART. 18. La présente Convention sera ratifiée et les ratifications seront échangées à Stockholm aussitôt que faire se pourra. Elle entrera en vigueur immédiatement après l'échange des ratifications et aura une durée de cinq années à dater de l'échange des ratifications. Si elle n'a pas été dénoncée six mois au moins avant l'expiration de ce délai, elle restera en vigueur pendant une nouvelle période de cinq ans et sera ainsi de suite censée renouvelée chaque fois pour cinq ans, sauf dénonciation six mois au moins avant l'expiration de la précédente période de cinq ans.

ART. 18. The present Convention shall be ratified and the ratifications shall be exchanged at Stockholm as soon as possible. It shall come into force as soon as the instruments of ratification have been exchanged, and shall remain in force for five years from that date. Unless denounced within<sup>1</sup> six months before the expiration of this period, it shall remain in force for a further period of five years and shall thereafter be regarded as renewed for successive periods of five years unless denounced within<sup>1</sup> six months before the expiration of the preceding period of five years.

En foi de quoi les plénipotentiaires respectifs ont signé la présente Convention et y ont apposé leurs cachets.

In faith whereof the Plenipotentiaries have signed the present Convention and thereto affixed their seals.

Fait à Kaunas, en deux exemplaires, le 11 juin 1925.

Done in duplicate at Kaunas, on June 11, 1925.

Undén  
Envoyé Extraordinaire et Ministre Plénipotentiaire de Sa Majesté le Roi de Suède.

Undén  
*Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of Sweden.*

V. Čarneckis  
Ministre des Affaires Étrangères.

V. Carneckis  
*Minister for Foreign Affairs.*

#### PERMANENT COMMISSION OF CONCILIATION

(Appointed April 29, 1927)

#### *President appointed by both Parties*

WALTER BURCKHARDT, Professor at the University of Berne. (*Swiss.*)

#### *Members appointed by Lithuania*

NYKOLAS ROEMERIS, Professor, Judge of the Supreme Court of Lithuania. (*Lithuanian.*)

JOHN LOPATTO, Lawyer. (*American.*)

#### *Members appointed by Sweden*

ALGOT BAGGE, former Counsellor at the Supreme Court of Sweden. (*Swedish.*)

LEO EHNRÖOTH, Mayor of Helsingfors. (*Finnish.*)

<sup>1</sup> Error of translation for 'at least.'

## No. 42

ESTONIA-GERMANY: TREATY OF CONCILIATION  
AND ARBITRATION

Signed at Berlin August 10, 1925; ratifications exchanged June 1, 1927.

Original text from Germany, *Reichsgesetzblatt*, 1926, II, No. 31;<sup>1</sup> English translation from League of Nations, *Treaty Series*, LXIII, 124-135.

(Translation)

Das Deutsche Reich und die Republik Estland, von dem Wunsche erfüllt, die Entwicklung des Verfahrens zur friedlichen Beilegung zwischenstaatlicher Streitigkeiten zu fördern, sind übereingekommen, einen allgemeinen Schiedsgerichts- und Vergleichsvertrag abzuschließen.

Zu diesem Zwecke haben zu Bevollmächtigten ernannt die deutsche Regierung:

den Reichsminister des Auswärtigen Herrn Dr. Gustav Stresemann, die Regierung der Republik Estland:

den Herrn Aussenminister Kaarel Robert Pusta,

die, nachdem sie ihre Vollmachten geprüft und in guter und gehöriger Form befunden haben, über folgende Bestimmungen übereingekommen sind:

ARTIKEL I. Die vertragschließenden Teile verpflichten sich, alle Streitigkeiten irgendwelcher Art, die zwischen ihnen entstehen und nicht in angemessener Frist auf diplomatischem Wege geschlichtet werden können, nach Massgabe des gegenwärtigen Vertrags entweder einem Schiedsgerichtsverfahren oder einem Vergleichsverfahren zu unterwerfen.

Streitigkeiten, für deren Schlichtung die vertragschließenden Teile

The German Reich and the Republic of Estonia, being desirous of promoting the development of the procedure for the pacific settlement of international disputes, have agreed to conclude a general arbitration and conciliation convention, and have for this purpose appointed as their Plenipotentiaries:

The German Government:

Dr. Gustav Stresemann, Minister for Foreign Affairs;

The Government of the Republic of Estonia:

M. Kaarel Robert Pusta, Minister for Foreign Affairs;

Who, after having communicated their full powers, found in good and due form, have agreed as follows:

ARTICLE I. The Contracting Parties undertake to submit all disputes of any nature whatever which may arise between them, and which it has not been possible to settle within a reasonable period by diplomacy, to a procedure of arbitration or conciliation as provided in the present Convention.

Disputes for the solution of which a special procedure has been laid down in other conventions in force between the Contracting Par-

<sup>1</sup> See also League of Nations, *Treaty Series*, LXIII, 112. The Estonian text is also authentic.

durch andere zwischen ihnen bestehende Abmachungen an ein besonderes Verfahren gebunden sind, werden nach Massgabe der Bestimmungen dieser Abmachungen behandelt.

ART. 2. Dem Schiedsgerichtsverfahren werden auf Verlangen einer Partei, unter Vorbehalt der Bestimmungen der Artikel 3 und 4, diejenigen Streitigkeiten unterworfen, die betreffen

erstens: Bestand, Auslegung und Anwendung eines zwischen den beiden Parteien geschlossenen Staatsvertrags;

zweitens: irgendeine Frage des internationalen Rechts;

drittens: das Bestehen einer Tatsache, die, wenn sie erwiesen wird, die Verletzung einer zwischenstaatlichen Verpflichtung bedeutet;

viertens: Umfang und Art der Wiedergutmachung im Falle einer solchen Verletzung.

Bestehen zwischen den Parteien Meinungsverschiedenheiten darüber, ob eine Streitigkeit zu den vorstehend bezeichneten Arten gehört, so wird über diese Vorfrage im Schiedsgerichtsverfahren entschieden.

ART. 3. Bei Fragen, die gemäss den Landesgesetzen der Partei, gegen die ein Begehren geltend gemacht wird, von richterlichen Behörden, mit Einschluss der Verwaltungsgerichte, zu entscheiden sind, kann diese Partei verlangen, dass die Streitigkeiten dem Schiedsgerichtsverfahren erst unterworfen werden, nachdem in dem Gerichtsverfahren eine endgültige Entscheidung gefällt worden ist, und dass die Anrufung des Schiedsgerichts spätestens sechs Monate nach dieser Entscheidung erfolge. Dies gilt nicht, wenn es sich um einen Fall von Rechtsverweigerung handelt und die gesetzlich vor-

ties shall be settled in accordance with the provisions of such conventions.

ART. 2. At the request of one of the Parties, disputes regarding the following subjects shall, unless otherwise provided for in Articles 3 and 4, be submitted to arbitration:

First, the existence, interpretation and application of any treaty concluded between the two Parties;

Secondly, any question of international law;

Thirdly, the existence of any fact which, if established, would constitute a breach of an international obligation;

Fourthly, the extent and nature of the reparation to be made for the breach of such obligation.

In case of disagreement as to whether the dispute falls under one of the above categories, this prior question shall be referred to arbitration.

ART. 3. In regard to questions which, under the national laws of the Party against which a demand has been formulated, are within the competence of the judicial authorities, including administrative tribunals, the defendant Party may require, on the one hand, that the dispute shall not be submitted to arbitral award until a final decision has been pronounced by these judicial authorities and, on the other hand, that the matter shall be brought before the Tribunal not later than six months after the date of such decision. The above provisions shall not apply if justice has been refused and if the matter has

gesehenen Beschwerdestellen angerufen worden sind.

Entsteht zwischen den Parteien eine Meinungsverschiedenheit über die Anwendung der vorstehenden Bestimmung, so wird darüber im Schiedsgerichtsverfahren entschieden.

ART. 4. Erhebt eine Partei bei einer Streitigkeit der in Artikel 2 bezeichneten Arten die Einrede, dass es sich um eine Angelegenheit handle, die ihre Unabhängigkeit, die Unversehrtheit ihres Gebiets oder andere höchste Lebensinteressen betreffe, so kommt für die Streitigkeit, falls die andere Partei diese Behauptung als zutreffend anerkennt, nicht das Schiedsgericht, sondern das Vergleichsverfahren zur Anwendung. Wird dagegen die Behauptung von der anderen Partei nicht als zutreffend anerkannt, so ist darüber im Schiedsgerichtsverfahren zu entscheiden.

Anerkennt das Schiedsgericht die bezeichnete Einrede als begründet, so überweist es die Streitigkeit dem Vergleichsverfahren; sonst entscheidet es selbst darüber.

Eine Partei, welche die bezeichnete Einrede der Gegenpartei nicht als zutreffend anerkennt, kann sich gleichwohl ohne vorherige Herbeiführung einer schiedsgerichtlichen Entscheidung über die Einrede mit der Durchführung des Vergleichsverfahrens einverstanden erklären. Sie kann dabei jedoch den Vorbehalt machen, dass, wenn der Vergleichsvorschlag nicht von beiden Parteien angenommen wird, das Schiedsgericht zur Entscheidung über die Einrede und gegebenenfalls auch über die Streitigkeit selbst angerufen werden kann.

ART. 5. Das Schiedsgericht legt seinen Entscheidungen zugrunde

been brought before the courts of appeal provided for by law.

In the case of disputes regarding the application of the preceding provision, the Arbitral Tribunal shall decide.

ART. 4. If, in a dispute coming under one of the categories mentioned in Article 2, one of the Parties pleads that the question at issue is one which affects its independence, the integrity of its territory or other vital interests of the highest importance, and if the opposing Party admits that the plea is well founded, the dispute shall not be subject to arbitration, but to the procedure of conciliation. If, however, the plea is not recognised as well founded by the opposing Party, this point shall be settled by means of arbitration.

If the Tribunal recognises the validity of such plea, it shall refer the dispute for settlement to the procedure of conciliation. If the contrary is the case, it shall itself give an award on the dispute.

A Party which does not recognise the validity of the plea of exception put forward by the opposing Party may, nevertheless, without first having recourse to arbitration, agree to the application of the procedure of conciliation. It may, however, stipulate that, if the proposal for settlement by conciliation is not accepted by both Parties, the Tribunal shall be required to give a decision regarding the plea of exception and, if necessary, regarding the dispute itself.

ART. 5. The Tribunal shall base its decisions on:

erstens: die zwischen den Parteien geltenden Übereinkünfte allgemeiner oder besonderer Art und die sich daraus ergebenden Rechtsätze;

zweitens: das internationale Gewohnheitsrecht als Ausdruck einer allgemeinen, als Recht anerkannten Übung;

drittens: die allgemeinen von den Kulturstaaten anerkannten Rechtsgrundsätze.

Soweit im einzelnen Falle die vorstehend erwähnten Rechtsgrundlagen Lücken aufweisen, entscheidet das Schiedsgericht nach den Rechtsgrundsätzen, die nach seiner Ansicht die Regel des internationalen Rechts sein sollten. Es folgt dabei bewährter Lehre und Rechtsprechung.

Mit Zustimmung beider Parteien kann das Schiedsgericht seine Entscheidung, anstatt sie auf Rechtsgrundsätze zu stützen, nach billigem Ermessen treffen.

ART. 6. Sofern nicht die Parteien im einzelnen Fall eine entgegenstehende Vereinbarung treffen, wird das Schiedsgericht in folgender Weise bestellt.

Jede Partei ernennt zwei Schiedsrichter nach freier Wahl. Nur einer von diesen beiden darf Staatsangehöriger der Partei sein, der andere ist zu wählen auf der Grundlage des Verzeichnisses der Mitglieder des durch das Haager Abkommen zur friedlichen Erledigung internationaler Streitfälle vom 18. Oktober 1907 geschaffenen Ständigen Schiedshof im Haag. Die auf diesem Wege ernannten Schiedsrichter wählen gemeinsam einen fünften Richter, der gleichzeitig Vorsitzender des Schiedsgerichts sein soll. Um die Benennung dieses fünften Richters soll mangels einer Einigung innerhalb der im Artikel 8 Absatz 1 vorge-

First, the conventions, whether general or particular, in force between the Parties, and the principles of law arising therefrom;

Secondly, international custom as evidence of a general practice accepted as law;

Thirdly, the general principles of law recognised by civilised nations.

If, in a particular case, the legal bases mentioned above are inadequate, the Tribunal shall give an award in accordance with the principles of law which, in its opinion, should govern international law. For this purpose it shall be guided by rulings sanctioned by legal authorities and by jurisprudence.

If the Parties agree, the Tribunal may, instead of basing its decision on legal principles, give an award in accordance with considerations of equity.

ART. 6. In the absence of agreement to the contrary between the Parties in each particular case, the Tribunal shall be constituted as follows:

Each Party shall appoint two arbitrators of its own choice; only one of these two may be a national of the Party which appoints him; the other shall be chosen from the list of members of the Permanent Court of Arbitration established by the Hague Convention, dated October 18, 1907, for the Pacific Settlement of International Disputes.

The arbitrators thus nominated shall jointly select a fifth arbitrator who shall also serve as the chairman of the Tribunal. If no agreement is reached within the period of six months prescribed in paragraph 1 of Article 8, the President of the Swiss Confederation shall be re-

sehenen sechsmonatlichen Frist der Schweizerische Bundespräsident ersucht werden. Weder die aus dem oben genannten Verzeichnisse entnommenen Richter noch der Vorsitzende dürfen Staatsangehörige einer der beiden Parteien sein. Sie sollen weder auf deren Gebiet ihren Wohnsitz haben, noch in ihren Diensten stehen. Sollte einer dieser Umstände bei einem der letztgenannten drei Richter nachträglich eintreten, so kann jede Partei verlangen, dass er ersetzt werde. Streitigkeiten darüber, ob diese Voraussetzungen zutreffen, werden von den übrigen vier Richtern entschieden, wobei nötigenfalls der älteste der Richter den Vorsitz führt. Bei Stimmengleichheit hat der Vorsitzende eine doppelte Stimme.

Die Wahl der Richter erfolgt von neuem für jeden einzelnen Streitfall. Die vertragschliessenden Teile behalten sich jedoch vor, im gemeinsamen Einverständnis die Wahlen in der Weise vorzunehmen, dass für gewisse Arten von Streitfällen während eines bestimmten Zeitraums dieselben Richter dem Schiedsgericht angehören.

Mitglieder des Schiedsgerichts, die aus irgendeinem Grunde ausscheiden, werden in der gleichen Weise ersetzt, wie sie berufen worden sind.

ART. 7. Die vertragschliessenden Teile werden in Ausführung des gegenwärtigen Vertrags in jedem Einzelfall eine besondere Schiedsordnung festsetzen. Darin werden der Streitgegenstand, die etwaigen besonderen Befugnisse des Gerichts, dessen Zusammensetzung und Sitz, die Höhe des von jeder Partei als Kostenvorschuss zu hinterlegenden Betrags, die hinsichtlich der Form und der Fristen des Verfahrens zu beobachtenden

gefordert zu appoint this fifth arbitrator. Neither the arbitrators chosen from the above-mentioned list nor the chairman may be nationals of either of the two Parties. They must not be domiciled on their territory or be employed in their service. If any of these conditions subsequently arise in the case of one of the three last-named arbitrators, either of the Parties may claim that he be replaced. Any disputes which may occur as to whether any one of these conditions exists shall be settled by the other four arbitrators; the eldest of the arbitrators jointly elected shall take the chair in these cases and, if the votes are equally divided, he shall have a casting vote.

For each individual dispute there shall be a fresh election of arbitrators. The Contracting Parties, however, reserve the right to make these appointments jointly in such a way that, for a certain class of dispute, the same arbitrators shall be seated on the Tribunal for a definite period.

In the case of the retirement of members of the Tribunal for any reason whatever, they shall be replaced according to the manner determined for their appointment.

ART. 7. In each individual case the Contracting Parties shall, in pursuance of the present Treaty, draw up a special agreement, to determine the subject of the dispute, any special terms of reference which may be accorded to the Tribunal, its composition, the place where it shall meet, the amount that each Party concerned shall deposit in advance to cover expenses, the rules to be observed with regard to the form and time-limits of

Regeln sowie die sonst notwendigen Einzelheiten bestimmt.

Meinungsverschiedenheiten über die Bestimmungen der Schiedsordnung werden, vorbehaltlich des Artikel 8, vom Schiedsgericht entschieden.

ART. 8. Kommt zwischen den Parteien nicht binnen sechs Monaten, nachdem die eine der anderen das Begehren nach schiedsgerichtlicher Austragung einer Streitigkeit mitgeteilt hat, die Schiedsordnung zustande, so kann jede Partei den in Artikel 14 vorgesehenen Ständigen Vergleichsrat zwecks Feststellung der Schiedsordnung anrufen. Dieser hat binnen zwei Monaten nach seiner Anrufung die Schiedsordnung festzusetzen, wobei der Streitgegenstand aus den Anträgen der Parteien ermittelt wird.

Es ist ebenso zu verfahren, wenn eine Partei die von ihr zu ernennenden Richter nicht bezeichnet hat.

Der Ständige Vergleichsrat ist ferner befugt, bis zur Bestellung des Schiedsgerichts über jede andere Streitigkeit zu entscheiden, die sich auf die Schiedsordnung bezieht.

ART. 9. Das Schiedsgericht trifft seine Entscheidungen mit einfacher Stimmenmehrheit. Die abweichende Ansicht eines in der Minderheit gebliebenen Mitgliedes wird auf sein Verlangen festgestellt.

ART. 10. Der Schiedsspruch wird Angaben über die Art seiner Ausführung, insbesondere über die dabei zu beobachtenden Fristen, enthalten.

Wird in einem Schiedsspruch festgestellt, dass eine von einem Gericht oder einer anderen Behörde einer der beiden Parteien getroffene Entscheidung oder Verfügung ganz

the proceedings, and any other details that may be considered necessary.

Any disputes arising out of the terms of the special agreement shall, subject to Article 8, be referred to arbitration.

ART. 8. If the special agreement has not been determined within a period of six months after one Party concerned has notified the other of its intention to refer the dispute to arbitration, either Party may request the Permanent Board of Conciliation provided for under Article 14 to establish the special agreement. The Permanent Board of Conciliation shall, within two months after the question has been submitted to it, settle the terms of the agreement, the subject of the dispute being determined on the basis of the statements submitted by the Parties.

The same procedure shall apply when one Party has not nominated the arbitrator for whose appointment it is responsible.

Pending the constitution of the Tribunal, the Permanent Board of Conciliation shall also be competent to decide any other dispute relating to the special agreement.

ART. 9. The award of the Tribunal shall be given by a majority vote. The opinion of any member of a minority of the Tribunal who dissents from the award shall at his desire be duly placed on record.

ART. 10. The arbitration award shall specify the manner in which it is to be carried out, especially as regards the time-limits to be observed.

If in an arbitration award it is proved that a decision or measure of a court of law or other authority of one of the Parties is wholly or in part contrary to international law,



oder teilweise mit dem Völkerrecht in Widerspruch steht, können aber nach dem Verfassungsrechte dieser Partei die Folgen der Entscheidung oder Verfügung durch Verwaltungsmassnahmen nicht oder nicht vollständig beseitigt werden, so ist der verletzten Partei in dem Schiedsspruch auf andere Weise eine angemessene Genugtuung zuzuerkennen.

ART. 11. Unter Vorbehalt anderweitiger Abrede in der Schiedsordnung kann jede Partei bei dem Schiedsgerichte, das den Spruch erlassen hat, die Revision dieses Spruches beantragen. Der Antrag kann nur mit der Ermittlung einer Tatsache begründet werden, die einen entscheidenden Einfluss auf den Spruch auszuüben geeignet gewesen wäre und bei Schluss der Verhandlung dem Schiedsgerichte selbst und der Partei, welche die Revision beantragt hat, ohne ihr Verschulden unbekannt war.

Mitglieder des Schiedsgerichts, die aus irgendeinem Grunde für das Revisionsverfahren ausscheiden, werden in der gleichen Weise ersetzt, wie sie berufen worden sind.

Die Frist, innerhalb deren der im Absatz 1 vorgesehene Antrag gestellt werden kann, ist im Schiedsspruch zu bestimmen, sofern dies nicht in der Schiedsordnung gesehen ist.

ART. 12. Alle Streitigkeiten, die zwischen den Parteien über Auslegung und Ausführung des Schiedsspruchs entstehen sollten, unterliegen, vorbehaltlich anderweitiger Abrede, der Beurteilung des Schiedsgerichts, das den Spruch gefällt hat. Dabei findet die Bestimmung des Artikel 11 Absatz 2 entsprechende Anwendung.

ART. 13. Alle Streitigkeiten, die nicht nach den vorhergehenden Ar-

and if the constitutional law of that Party does not permit, or only partially permits, the consequences of the decision or measure in question to be annulled by administrative measures, the arbitration award shall give the injured Party equitable satisfaction of another kind.

ART. 11. Subject to any provision to the contrary in the agreement of reference, either Party may claim a revision of the award by the Tribunal which gave the award. This demand may only be based on the discovery of a fact which would have been capable of exercising a decisive influence on the award and which, at the time of the close of the proceedings, was unknown to the Tribunal itself and to the Party demanding the revision, unless the Party in question was at fault in not being aware of it.

If, for any reason, any members of the Tribunal do not take part in the revision proceedings, substitutes for them shall be appointed in the manner determined for their own appointment.

The limit of time within which the demand provided for in the first paragraph may be presented shall be fixed in the arbitral award, unless it has already been fixed in the special agreement.

ART. 12. Any dispute arising between the Parties as to the interpretation and execution of the award shall, in the absence of an agreement to the contrary, be submitted to the Tribunal which pronounced it. In the latter case the provision contained in Article 11, paragraph 2, shall apply *mutatis mutandis*.

ART. 13. Any dispute which, under the preceding Articles of the

tikeln dieses Vertrags dem Schiedsgerichtsverfahren unterworfen werden, sind auf Verlangen einer Partei im Vergleichsverfahren zu behandeln.

Behauptet die andere Partei, dass der im Vergleichsverfahren anhängig gemachte Streitfall vom Schiedsgerichte zu entscheiden sei, so entscheidet dieses zunächst über diese Vorfrage.

Die Regierungen der vertragschliessenden Teile können im gemeinsamen Einverständnis eine Streitigkeit, für die nach dem gegenwärtigen Verträge das Schiedsgericht angerufen werden kann, endgültig oder unter Vorbehalt der späteren Anrufung des Schiedsgerichts im Vergleichsverfahren behandeln lassen.

ART. 14. Für das Vergleichsverfahren wird ein Ständiger Vergleichsrat gebildet.

Der Ständige Vergleichsrat besteht aus fünf Mitgliedern. Die vertragschliessenden Teile ernennen, jeder für sich, nach freier Wahl je ein Mitglied und berufen die drei übrigen Mitglieder im gemeinsamen Einverständnis. Diese drei Mitglieder sollen nicht Angehörige der vertragschliessenden Staaten sein, noch sollen sie auf deren Gebiet ihren Wohnsitz haben oder in deren Dienst stehen. Aus ihrer Mitte wird der Vorsitzende durch die vertragschliessenden Teile gemeinsam bezeichnet.

Jedem vertragschliessenden Teile steht das Recht zu jederzeit, sofern nicht ein Verfahren im Gange oder von einer Partei beantragt worden ist, das von ihm ernannte Mitglied abzuerven und dessen Nachfolger zu bestimmen. Unter den gleichen Voraussetzungen steht es jedem der vertragschliessenden Teile auch frei, die Zustimmung zur Berufung jedes der drei gemeinsam berufenen

present Convention, is not subject to arbitration shall, at the request of either Party, be submitted to the procedure of conciliation.

If the opposing Party claims that a dispute for which conciliation procedure has been initiated should be settled by the Tribunal, the latter shall first pronounce judgment upon this prior question.

The Governments of the Contracting Parties may agree that a dispute which, under the terms of the present Convention, can be settled by arbitration, shall be referred to a procedure of conciliation, either subject to appeal to the Tribunal or without the right of appeal.

ART. 14. A Permanent Board of Conciliation shall be constituted for the procedure of conciliation.

The Permanent Board of Conciliation shall consist of five members. The Contracting Parties shall each appoint one member of their own choice, and nominate the other three members jointly. These three members shall not be nationals of the Contracting Parties, nor shall they be domiciled on their territory or employed in their service. The Contracting Parties shall jointly elect the chairman from among these three members.

Either of the Contracting Parties shall have the right at any time, unless a procedure is pending or has been proposed by one of the Parties, to recall the member appointed by it, and to appoint a successor. Similarly, either Contracting Party shall also be entitled to withdraw its consent to the appointment of each of the three members nominated jointly. In this case a new member must be

Mitglieder zurückzuziehen. In diesem Falle muss unverzüglich zur gemeinsamen Berufung eines neuen Mitgliedes geschritten werden.

Der Ständige Vergleichsrat wird im Laufe von sechs Monaten nach Austausch der Ratifikationsurkunden dieses Vertrags gebildet. Ausscheidende Mitglieder werden gemäss dem für die erstmalige Wahl massgebenden Verfahren so rasch als möglich ersetzt.

Wenn die Berufung der gemeinsam zu berufenden Mitglieder nicht innerhalb von sechs Monaten nach dem Austausch der Ratifikationsurkunden oder, im Falle der Ergänzung des Ständigen Vergleichsrats, nicht innerhalb von drei Monaten nach Ausscheiden eines Mitgliedes stattgefunden hat, so sollen die vertragschliessenden Teile je zwei Mitglieder nach freier Wahl ernennen und einen Obmann im gemeinsamen Einverständnis berufen. Je einer der von den Parteien ernannten Mitglieder ebenso wie der Obmann sollen nicht Angehörige der vertragschliessenden Teile sein, noch sollen sie auf deren Gebiete ihren Wohnsitz haben oder in deren Diensten stehen. Um die Benennung des Obmanns soll mangels einer Einigung der Schweizerische Bundespräsident ersucht werden.

ART. 15. Der Ständige Vergleichsrat tritt in Wirksamkeit, sobald er von einer Partei angerufen wird. Diese richtet ihr Begehren gleichzeitig an den Vorsitzenden des Ständigen Vergleichsrats und an die andere Partei. Der Vorsitzende hat den Ständigen Vergleichsrat in kürzester Frist einzuberufen.

Die vertragschliessenden Teile verpflichten sich, in allen Fällen und in jeder Hinsicht die Arbeiten des Ständigen Vergleichsrats zu fördern und ihm insbesondere

appointed by joint agreement without delay.

The Permanent Board of Conciliation shall be constituted in the course of the six months following the exchange of the instruments of ratification of the present Convention. Retiring members shall be replaced as soon as possible in the manner laid down for the first election.

If the nomination of the members to be appointed jointly has not taken place within the six months following the exchange of the instruments of ratification or, in the case of a vacancy on the Permanent Board of Conciliation, within three months from the date on which the vacancy occurs, the Contracting Parties shall each appoint two members of their own free will and shall jointly nominate the chairman. One of the two members appointed by each Party, and also the chairman, may not be nationals of the Contracting Parties, nor may they be domiciled on their territory or employed in their service. In the absence of an agreement upon the choice of the chairman, the President of the Swiss Confederation shall be requested to make the appointment.

ART. 15. The Permanent Board of Conciliation shall enter upon its duties as soon as a dispute has been referred to it by either of the Parties. Such Party shall communicate its request simultaneously to the chairman of the Permanent Board of Conciliation and to the other Party. The chairman shall summon the Permanent Board of Conciliation to meet at the earliest possible moment.

The Contracting Parties undertake in all cases and in all respects

durch die zuständigen Behörden jede Rechtshilfe zu gewähren. Sie werden dem Ständigen Vergleichsrat die Möglichkeit gewähren, auf ihrem Gebiete nach Massgabe der dort den Gerichten zustehenden Befugnisse Zeugen und Sachverständige vorzuladen und zu vernehmen und Augenschein einzunehmen. Der Ständige Vergleichsrat kann die Beweise entweder in vollständiger Besetzung oder durch eines oder mehrere der gemeinsam berufenen Mitglieder erheben.

ART. 16. Der Ständige Vergleichsrat bestimmt seinen Sitz. Er kann ihn nach freiem Ermessen verlegen.

Der Ständige Vergleichsrat bildet nötigenfalls eine Kanzlei. Soweit er in die Kanzlei Angehörige der Parteien beruft, hat er dabei die Parteien gleichmässig zu berücksichtigen.

ART. 17. Der Ständige Vergleichsrat ist beschlussfähig, wenn alle Mitglieder ordnungsmässig geladen und mindestens die gemeinsam berufenen Mitglieder anwesend sind.

Sollte der Vergleichsrat auf Grund des Artikel 14 Absatz 5 zustande gekommen sein, so ist er als beschlussfähig anzusehen, wenn alle Mitglieder ordnungsmässig geladen sind, und mindestens drei Richter, darunter der Obmann, anwesend sind.

Soweit dieser Vertrag es nicht anders vorsieht, trifft der Ständige Vergleichsrat seine Entschliessungen mit einfacher Stimmenmehrheit. Im Falle der Stimmengleichheit hat der Vorsitzende eine doppelte Stimme.

ART. 18. Dem Ständigen Vergleichsrat liegt ob, einen Bericht

to further the work of the Permanent Board of Conciliation and in particular to grant it all legal assistance through the competent authorities. They shall enable the Permanent Board of Conciliation to summon and examine witnesses and experts and to proceed to investigations on the spot in their respective territories, within the limits of the powers enjoyed by their own Courts. The Permanent Board of Conciliation may take evidence either *in pleno*, or through one or more of the members appointed jointly.

ART. 16. The Permanent Board of Conciliation shall determine its own meeting place and shall be at liberty to transfer it.

The Permanent Board of Conciliation shall, if need be, establish a registry. If it appoints nationals of the Contracting Parties to positions in this office, it shall treat both Parties on an equal footing.

ART. 17. The deliberations of the Permanent Board of Conciliation shall be valid if all the members have been duly convened and if the members nominated jointly are present at the meeting.

If the Board of Conciliation has been constituted in accordance with paragraph 5 of Article 14, its deliberations shall be regarded as valid if all the members have been duly convened and if at least three arbitrators, including the chairman, are present.

Unless the present Convention provides otherwise, the decisions of the Permanent Court of Conciliation shall be taken by a majority vote. If the votes are equally divided, the chairman shall have a casting vote.

ART. 18. The Permanent Board of Conciliation shall draw up a re-

zu erstatten, der den Sachverhalt feststellt und, wenn die Umstände des Falles dazu Anlass geben, Vorschläge für die Beilegung der Streitigkeit enthält. In dem Berichte wird die abweichende Ansicht eines in der Minderheit gebliebenen Mitglieds auf sein Verlangen festgestellt.

Der Bericht ist innerhalb von sechs Monaten nach dem Tage zu erstatten, an dem die Streitigkeit dem Ständigen Vergleichsrat unterbreitet wurde, es sei denn, dass die Parteien diese Frist im gemeinsamen Einverständnis verkürzen oder verlängern. Der Bericht soll in drei Ausfertigungen verfasst werden, von denen je eine jeder Partei ausgehändigt, die dritte vom Ständigen Vergleichsrat aufbewahrt wird.

Der Bericht hat weder in bezug auf die Tatsachen noch in bezug auf die rechtlichen Ausführungen die Bedeutung einer endgültig bindenden Entscheidung. Jedoch hat sich jede Partei innerhalb einer im Berichte festzusetzenden Frist darüber zu erklären, ob und inwieweit sie die Feststellungen des Berichts anerkennt und dessen Vorschläge annimmt. Diese Frist darf die Zeit von drei Monaten nicht überschreiten.

Es ist Sache der Parteien, im gemeinsamen Einverständnis zu bestimmen, ob der Bericht unverzüglich veröffentlicht werden soll. Kommt es jedoch nicht zu einem solchen Einverständnis, so kann der Ständige Vergleichsrat seinerseits aus besonderen Gründen die sofortige Veröffentlichung des Berichts veranlassen; hierzu bedarf es der Zustimmung von mindestens vier Mitgliedern.

ART. 19. Jede Partei trägt die Vergütung für die Tätigkeit der von ihrernannten Mitglieder des Ständi-

port, which shall set out the facts of the case and, if the circumstances permit, shall contain proposals for the settlement of the dispute. The minority opinion of a member shall be recorded in the report at that member's request.

The report shall be submitted within six months from the date on which the dispute was laid before the Permanent Board of Conciliation, unless the Parties agree to shorten or extend this time-limit. The report shall be drawn up in three copies, one of which shall be handed to each of the Parties and the third preserved in the archives of the Permanent Board of Conciliation.

The report shall not, either as regards statements of fact or as regards legal considerations, be in the nature of a final judgment binding upon the Parties. Each Party shall however state, within a time-limit to be fixed by the report, whether and to what extent it recognises the correctness of the findings in the report and accepts the proposals which it contains. The duration of this time-limit shall not exceed three months.

The Parties shall jointly decide whether the report should be published immediately. If they fail to reach an agreement on this point, the Permanent Board of Conciliation may have the report published immediately, should there be special reasons for so doing. In this case the consent of at least four members must be obtained.

ART. 19. Each Party shall bear the cost of the remuneration of the member of the Permanent Board

gen Vergleichsrats sowie die Hälfte der Vergütung für die Tätigkeit der gemeinsam berufenen Mitglieder.

Jede Partei trägt die von ihr veranlassten Kosten des Verfahrens sowie die Hälfte der Kosten, die von dem Ständigen Vergleichsrat als gemeinsame bezeichnet werden.

ART. 20. Der im Schiedsgerichtsverfahren gefällte Spruch ist von den Parteien nach Treu und Glauben zu erfüllen.

Die vertragschliessenden Teile verpflichten sich, während der Dauer des Schiedsgerichts- oder Vergleichsverfahrens nach Möglichkeit jede Massnahme zu vermeiden, die auf die Erfüllung des Schiedsspruchs oder die Annahme der Vorschläge des Ständigen Vergleichsrats nachteilig zurückwirken könnte. Im Sinne dieser Bestimmung dauert das Vergleichsverfahren bis zu dem Zeitpunkt, den der Ständige Vergleichsrat für die Annahmeerklärung der Parteien festsetzt.

Das Schiedsgericht kann auf Verlangen einer Partei vorsorglich Massnahmen anordnen, soweit diese von den Parteien auf dem Verwaltungswege durchgeführt werden können; ebenso kann der Ständige Vergleichsrat zum gleichen Zwecke Vorschläge machen.

ART. 21. Unter Vorbehalt entgegenstehender Bestimmungen des gegenwärtigen Vertrags oder der Schiedsordnung ist für das Schiedsgerichts- und Vergleichsverfahren das Haager Abkommen zur friedlichen Erledigung internationaler Streitfälle vom 18. Oktober 1907 massgebend.

of Conciliation appointed by itself and half the cost of the remuneration of the members appointed jointly.

Each Party shall bear the costs which it has incurred in connection with the proceedings, and half of the costs which the Permanent Board of Conciliation declares to be common to both Parties.

ART. 20. The award pronounced as the result of the procedure of arbitration shall be carried out in good faith by the Parties concerned.

The Contracting Parties undertake, during the course of the arbitration or conciliation proceedings, as far as possible, to refrain from any action liable to have a prejudicial effect on the execution of the arbitral award or on the acceptance of the proposals of the Permanent Board of Conciliation. For the purposes of this stipulation the conciliation procedure shall continue until the expiration of the time-limit fixed by the Permanent Board of Conciliation for the acceptance of its proposals.

The Arbitral Tribunal may, at the request of either of the Parties, prescribe measures of precaution, provided that such measures can be carried out by the Parties through their administrative machinery. The Permanent Board of Conciliation may also make proposals for the same purpose.

ART. 21. Subject to any provisions to the contrary laid down in the present Convention or the special agreement, the procedure of arbitration and conciliation shall be regulated by the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

Soweit der gegenwärtige Vertrag auf die Bestimmungen des Haager Abkommens verweist, finden sie im Verhältnis zwischen den vertragsschliessenden Teilen Anwendung, ungeachtet des Umstandes, ob sie Teilnehmer des Abkommen sind oder nicht.

Sofern weder der gegenwärtige Vertrag noch die Schiedsordnung noch die sonst zwischen den vertragsschliessenden Teilen bestehenden Übereinkünfte die Fristen und andere Einzelheiten des Schiedsgerichts- oder Vergleichsverfahrens festlegen, ist das Schiedsgericht oder der Ständige Vergleichsrat selbst befugt, die erforderlichen Bestimmungen zu treffen.

ART. 22. Der gegenwärtige Vertrag soll so bald als möglich ratifiziert werden. Die Ratifikationsurkunden sollen in Berlin ausgetauscht werden.

Der Vertrag tritt einen Monat nach dem Austausch der Ratifikationsurkunden in Kraft.

Der Vertrag gilt für die Dauer von zehn Jahren. Wird er nicht sechs Monate vor Ablauf dieses Zeitraums gekündigt, so bleibt er für weitere zwei Jahre in Kraft. Das gleiche gilt, wenn der Vertrag nicht mit der bezeichneten Frist gekündigt wird, für die spätere Zeit.

Ein Schiedsgerichtsverfahren oder ein Vergleichsverfahren, das bei Ablauf des gegenwärtigen Vertrags schwebt, nimmt seinen Lauf nach den Bestimmungen dieses Vertrags oder eines anderen Abkommens, das von den vertragsschliessenden Teilen an dieser Stelle vereinbart wird.

Zu Urkund dessen haben die Bevollmächtigten den gegenwärtigen Vertrag unterzeichnet.

Ausgefertigt in doppelter Ur-

In as far as the present Convention refers to the stipulations of the Hague Convention, the latter shall be applicable to the relations between the Contracting Parties, whether or not those Parties are signatories to the Hague Convention.

In so far as neither the present Convention nor the special agreement, nor any other conventions in force between the Parties, lay down the time-limits and other details connected with the procedure of arbitration or conciliation, the Tribunal or the Permanent Board of Conciliation shall itself be competent to decide as to the necessary provisions.

ART. 22. The Convention shall be ratified as soon as possible. The instruments of ratification shall be exchanged at Berlin.

The Convention shall come into force one month after the exchange of the instruments of ratification.

The Convention shall be valid for a period of ten years. If, however, it is not denounced six months before the expiration of this period it shall remain in force for a further period of two years, and be similarly renewed so long as it has not been denounced within the prescribed period.

If a dispute which has been referred to arbitration or conciliation has not been settled when the present Convention expires, the case shall be proceeded with according to the stipulations of the present Convention or of any other convention which the Contracting Parties may agree to substitute therefor.

In witness whereof, the Plenipotentiaries have signed the present Convention.

Done in duplicate in German and

schrift in deutscher und estnischer  
Sprache in Berlin am 10. August  
1925.

Stresemann  
Pusta

Estonian at Berlin, August 10,  
1925.

Pusta  
Stresemann<sup>1</sup>

#### FINAL PROTOCOL

1. Die vertragschliessenden Teile gehen von der Ansicht aus, dass die einzelnen Bestimmungen des Vertrags im Zweifel zugunsten der Anwendung des Grundsatzes der schiedsgerichtlichen Erledigung von Streitigkeiten auszulegen sind.

2. Die vertragschliessenden Teile erklären, dass der Vertrag auch dann Anwendung findet, wenn eine Streitigkeit in Ereignissen ihren Ursprung hat, die zeitlich vor seinem Abschluss liegen. Etwaige mit Ereignissen des Weltkrieges in unmittelbarem Zusammenhange stehende Streitigkeiten werden jedoch mit Rücksicht auf ihre allgemeine politische Bedeutung hiervon ausgeschlossen.

3. Die Tatsache, dass an einer Streitigkeit dritte Staaten beteiligt sind, schliesst die Anwendung des Vertrags nicht aus. Die vertragschliessenden Teile werden gegebenenfalls dahin wirken, die dritten Staaten zum Anschluss an das Schiedsgericht- oder Vergleichsverfahren zu veranlassen. Für diesen Fall bleibt es den beiderseitigen Regierungen vorbehalten, im gemeinsamen Einverständnis eine besondere Zusammensetzung des Schiedsgerichts oder des Ständigen Vergleichsrats vorzusehen. Kann eine Verständigung mit den dritten Staaten über deren Anschluss nicht binnen angemessener

1. The Contracting Parties are agreed that in doubtful cases the stipulations of the present Convention shall be interpreted in favour of the application of the principle of the settlement of disputes by arbitration.

2. The Contracting Parties declare that the Convention shall also apply to disputes arising out of events which occurred prior to its conclusion. In consideration of their general political bearing, an exception shall, however, be made with regard to disputes arising directly out of the world war.

3. The Convention shall not cease to be applicable for the reason that a third State is concerned in a dispute. The Contracting Parties shall endeavour, if necessary, to induce the third State to agree to refer the dispute to arbitration or conciliation. In this case, the two Governments may, if they so desire, jointly provide that the Tribunal or the Permanent Board of Conciliation shall be constituted in a special manner. If no agreement is reached with the third State as regards its adhesion within a reasonable period, the case shall proceed in accordance with the provisions of the Convention, but with

<sup>1</sup> The League of Nations translation appears to confuse the order of signatures, both here and in the Final Protocol.



Frist herbeigeführt werden, so nimmt das Verfahren zwischen den vertragschliessenden Teilen mit Wirkung nur für diese den im Vertrag vorgesehenen Verlauf.

effect only as regards the Contracting Parties.

4. Die vertragschliessenden Teile erklären, dass Streitigkeiten zwischen Deutschland und einem dritten Staate, an denen Estland in seiner Eigenschaft als Mitglied des Völkerbundes beteiligt werden könnte, nicht als Streitigkeit zwischen den vertragschliessenden Teilen im Sinne des Vertrags angesehen werden können.

4. The Contracting Parties declare that disputes between Germany and a third State in which Estonia might be interested as a Member of the League of Nations, cannot be considered as disputes between the Contracting Parties in the sense intended by the present Convention.

Berlin, den 10. August 1925.

Stresemann  
Pusta

Berlin, August 10, 1925.

Pusta  
Stresemann

#### PERMANENT COMMISSION OF CONCILIATION

##### *President appointed by both Parties*

G. VAN SLOOTEN, Professor, Judge of the Supreme Court of the Netherlands. (*Dutch.*)

##### *Members appointed by both Parties*

ONNI TALAS, Professor at the University of Helsingfors, former Minister of Justice of Finland. (*Finnish.*)

KARL GUSTAV WESTMAN, Professor at the University of Upsala, former Minister of Justice of Sweden. (*Swedish.*)

##### *Member appointed by Estonia*

J. ULUOTS, Professor at the University of Tartu. (*Estonian.*)

##### *Member appointed by Germany.*

KURT WIEDENFELD, Professor at the University of Leipzig, former Director in the German Ministry of Foreign Affairs. (*German.*)

## No. 43

NORWAY-SWITZERLAND: TREATY OF CONCILIATION  
AND COMPULSORY ADJUDICATION

Signed at Oslo August 21, 1925; ratifications exchanged July 8, 1926.

Original text from Switzerland, *Recueil des Lois fédérales*, vol. XLII, 1926, No. 18;<sup>1</sup>  
English translation from League of Nations, *Treaty Series*, LI, 91-97.

## (Translation)

Le Conseil fédéral suisse et Sa Majesté le Roi de Norvège

animés du désir de resserrer les liens d'amitié qui unissent la Suisse et la Norvège et de favoriser, dans l'intérêt de la paix générale, le développement de la procédure de conciliation appliquée aux différends internationaux,

décidés à donner, dans les rapports entre les deux pays, la plus large application possible aux principes consacrés par la Résolution de l'Assemblée de la Société des Nations, en date du 22 septembre 1922, relative à l'institution de commissions de conciliation entre Etats,

ont résolu de conclure, à cet effet, un traité et ont désigné leurs Plénipotentiaires, savoir:

Le Conseil fédéral suisse:

Son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté le Roi de Norvège, Monsieur Charles L. E. Lardy,

Sa Majesté le Roi de Norvège:

Son Président du Conseil et Ministre des Affaires Etrangères, Monsieur Johan Ludwig Mowinckel,

lesquels, après s'être fait connaître leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Les Parties contractantes s'engagent à soumettre à

The Swiss Federal Council and His Majesty the King of Norway, being desirous of strengthening the ties of friendship which unite Switzerland and Norway, and of encouraging in the interests of general peace the development of the procedure of conciliation as applied to international disputes, and being determined to give the widest possible application in the relations between the two countries to the principles laid down by the Resolution of the Assembly of the League of Nations dated September 22, 1922, relating to the establishment of Commissions of Conciliation between States, have resolved to conclude a Treaty for this purpose, and have appointed as their Plenipotentiaries;

The Swiss Federal Council:

M. Charles L. E. Lardy, Envoy Extraordinary and Minister Plenipotentiary accredited to His Majesty the King of Norway;

His Majesty the King of Norway:

M. Johan Ludwig Mowinckel, Prime Minister and Minister for Foreign Affairs;

Who, having communicated their full powers found in good and due form, have agreed upon the following provisions:

ARTICLE I. The Contracting Parties undertake to submit to a

<sup>1</sup> See also League of Nations, *Treaty Series*, LI, 90.

une Commission permanente de conciliation, préalablement à toute procédure judiciaire ou arbitrale, tous les différends, de quelque nature qu'ils soient, qui viendraient à s'élever entre elles et n'auraient pu être résolus par la voie diplomatique.

Il appartiendra à chacune des Parties de décider du moment à partir duquel la procédure de conciliation pourra être substituée aux négociations diplomatiques.

Les Parties contractantes pourront convenir qu'un différend soit soumis directement à la Cour permanente de Justice internationale.

ART. 2. La Commission permanente de conciliation sera composée de cinq membres.

Les Parties contractantes nommeront chacune un membre à leur gré et désigneront les trois autres d'un commun accord. Ces trois membres ne devront, ni être des ressortissants des Etats contractants, ni avoir leur domicile sur leur territoire ou se trouver à leur service.

Le Président de la Commission sera nommé, d'un commun accord, parmi les membres désignés en commun.

La Commission sera constituée dans les six mois qui suivront l'échange des ratifications du présent traité.

Si la nomination des membres à désigner en commun ou du Président n'intervient pas dans les six mois à compter de l'échange des ratifications ou, en cas de retraite ou de décès, dans les deux mois à compter de la vacance du siège, les nominations seront effectuées, à la demande d'une seule des Parties, par le Président de la Cour permanente de Justice internationale ou, si celui-ci est ressortissant de l'un des Etats contractants, par le

Permanent Conciliation Commission, before any judicial or arbitrary proceedings are taken, all disputes whatsoever which may arise between them and which it may not have been possible to settle through the diplomatic channel.

Each Contracting Party shall be free to decide at what period the procedure of conciliation may be substituted for diplomatic negotiations.

The Contracting Parties may agree to submit a dispute direct to the Permanent Court of International Justice.

ART. 2. The Permanent Conciliation Commission shall be composed of five members.

Each Contracting Party shall nominate one member of its own choosing, the other three being appointed by joint agreement. The latter may not be nationals of the Contracting States, or be domiciled in their territory, or be employed in their service.

The President of the Commission shall be appointed by agreement from among the jointly-selected members.

The Commission shall be set up within six months after the ratifications of the present Treaty have been exchanged.

If the appointment of the members to be nominated jointly or of the President is not made within six months of the exchange of ratifications, or in the event of resignation or death within two months after the vacancy occurs, these appointments shall be made at the request of either Party by the President of the Permanent Court of International Justice, or, if the latter is a national of one of the Contracting States, by the Vice-President of the Court, or, if he is

Vice-Président ou, si celui-ci se trouve dans le même cas, par le membre le plus âgé de la Cour qui n'est pas ressortissant de l'un des Etats contractants.

ART. 3. Les membres de la Commission de conciliation seront nommés pour trois ans. Sauf accord contraire entre les Parties contractantes, ils ne pourront être révoqués pendant la durée de leur mandat. En cas de décès ou de retraite d'un membre, il devra être pourvu à son remplacement pour le reste de la durée de son mandat.

Si le mandat d'un membre désigné d'un commun accord expire sans qu'aucune des Parties s'oppose à son renouvellement, ce mandat sera censé renouvelé pour une nouvelle période de trois ans. De même, si, à l'expiration du mandat d'un membre désigné par l'une des Parties, il n'a pas été pourvu à son remplacement, son mandat sera censé renouvelé pour trois ans.

Un membre dont le mandat expire pendant la durée d'une procédure en cours continuera à prendre part à l'examen du différend jusqu'à clôture de la procédure.

ART. 4. Dans les quinze jours qui suivent la notification d'une demande de conciliation à la Commission de conciliation, chacune des Parties pourra remplacer le membre librement désigné par elle par une personne possédant une compétence spéciale dans la matière qui fait l'objet du différend.

La Partie qui entendrait user de ce droit en avertira immédiatement la Partie adverse; dans ce cas, celle-ci pourra user du même droit dans un délai de quinze jours à compter de la notification qu'elle a reçue.

ART. 5. La Commission de conciliation aura pour tâche de faciliter

in the same position, by the senior member of the Court who is not a national of one of the Contracting States.

ART. 3. The members of the Conciliation Commission shall be appointed for three years. Their appointment shall not be revoked during the term of their mandate, unless the Contracting Parties decide otherwise. In the event of the death or resignation of a member, arrangements shall be made to replace him for the remainder of his mandate.

If the mandate of a member selected by agreement expires, and if neither Party is opposed to its renewal, it shall be deemed to be renewed for a further period of three years. Similarly, if on the expiry of the mandate of a member appointed by one of the Parties, no arrangements have been made to replace him, his mandate shall be deemed renewed for three years.

A member whose mandate expires in the course of a procedure shall continue to take part in the examination of the dispute until the procedure is completed.

ART. 4. Within fifteen days following the notification of a request for conciliation to the Permanent Commission, either Party may replace the member of its own choosing by a person possessing special competence in the matter which forms the subject of the dispute.

The Party which intends to make use of this right shall immediately notify the opposing Party. In this case, the latter may make use of the same right within fifteen days after receiving the notification.

ART. 5. The task of the Permanent Conciliation Commission shall

la solution du différend, en éclaircissant, par un examen impartial et consciencieux, les questions de fait et en formulant des propositions en vue du règlement de la contestation.

La Commission sera saisie sur requête adressée à son Président par l'une des Parties contractantes.

Notification de cette requête sera faite, en même temps, à la Partie adverse par la Partie qui demande l'ouverture de la procédure de conciliation.

Le Président devra convoquer la Commission dans le plus bref délai.

ART. 6. La Commission de conciliation se réunira, sauf convention contraire, au lieu désigné par son Président.

ART. 7. Les Parties contractantes auront le droit de nommer, auprès de la Commission de conciliation, des agents spéciaux qui serviront, en même temps, d'intermédiaires entre elles et la Commission.

ART. 8. Les Parties contractantes s'engagent à faciliter, dans la plus large mesure possible, les travaux de la Commission de conciliation et, en particulier, à user de tous les moyens dont elles disposent, d'après leur législation intérieure, pour lui permettre de procéder, sur leur territoire, à la citation et à l'audition de témoins ou d'experts ainsi qu'à des descentes sur les lieux.

ART. 9. Les débats de la Commission de conciliation, ainsi que ses délibérations, auront lieu à huis clos, à moins que la Commission, d'accord avec les Parties, n'en décide autrement.

ART. 10. La procédure devant la Commission de conciliation sera contradictoire.

be to further the settlement of disputes by an impartial and conscientious examination of the facts and by formulating proposals with a view to settling the case.

The Commission shall be informed of a question by an application addressed to its President by one of the Contracting Parties.

This application shall be notified at the same time to the opposing Party by the Party which is requesting the institution of the procedure of conciliation.

The President shall convene the Commission at the earliest possible date.

ART. 6. The Commission shall meet at the place chosen by the President, unless there is an agreement to the contrary.

ART. 7. The Contracting Parties shall be entitled to appoint special agents on the Commission, who shall also act as intermediaries between the Parties and the Commission.

ART. 8. The Contracting Parties undertake to give the Commission all possible assistance in its work and, in particular, to employ all the means placed at their disposal by their domestic legislation to enable it to call and hear witnesses or experts within their territory as well as to carry out investigations on the spot.

ART. 9. The deliberations of the Commission shall be held in private, unless, in agreement with the Parties, the Commission decides otherwise.

ART. 10. In proceedings before the Commission both Parties shall be heard.

La Commission réglera elle-même la procédure, en tenant compte, sauf décision contraire prise à l'unanimité, des dispositions contenues au titre III de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 11. La Commission de conciliation pourra délibérer valablement si tous les membres ont été dûment convoqués et si le Président et au moins deux autres membres sont présents.

Sauf disposition contraire du présent traité, les décisions de la Commission seront prises à la majorité simple des voix, le Président ayant voix prépondérante en cas de partage.

ART. 12. La Commission de conciliation présentera son rapport dans les six mois à compter du jour où elle aura été saisie du différend, à moins que les Parties contractantes ne décident, d'un commun accord, de proroger ce délai.

L'avis motivé des membres restés en minorité sera consigné dans le rapport.

Le rapport de la Commission sera signé par le Président et sera porté sans délai à la connaissance des Parties.

Le rapport n'aura, ni en ce qui concerne l'exposé des faits, ni en ce qui concerne les considérations juridiques, le caractère d'une sentence arbitrale.

Il appartiendra aux Parties de décider, d'un commun accord, si le rapport de la Commission doit être publié dans le cas où les propositions qui y sont contenues n'auront pas été acceptées par les deux Parties.

ART. 13. La Commission de conciliation fixera le délai dans lequel

The Commission shall draw up rules to govern its procedure, subject to the proviso that the regulations laid down in Chapter III of The Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes shall be applied, unless the Commission unanimously agrees to depart from these regulations.

ART. 11. A quorum shall be constituted if all the members have been duly summoned and if the President and not less than two other members are present.

The Commission shall take its decisions by a majority vote of its members, except where otherwise laid down in the present Treaty, the President having a casting vote.

ART. 12. The Commission shall make its report within six months from the day on which the dispute is submitted to it, unless the Contracting Parties agree to a curtailment or extension of this period.

The report shall contain the reasoned opinion of the members who form the minority.

A copy of the report shall be signed by the President and sent to each Party.

The report shall not be in the nature of an arbitral award, as regards either the statement of facts or the legal considerations.

The Parties shall decide in agreement with one another whether the Commission's report shall be published in the event of the proposals contained therein not having been accepted by the two Parties.

ART. 13. The Conciliation Commission shall fix the period within

les Parties auront à porter à leur connaissance réciproque si elles acceptent ses propositions. Ce délai n'excédera pas toutefois la durée de trois mois.

Si l'une des Parties n'accepte pas les propositions de la Commission de conciliation ou ne se prononce pas dans le délai fixé par cette dernière et si, d'autre part, le litige rentre dans l'une des catégories de différends visées à l'article 36 du Statut de la Cour permanente de Justice internationale, chacune des Parties pourra recourir à la Cour de Justice par voie de simple requête.

ART. 14. Pendant la durée effective de la procédure, les membres de la Commission de conciliation recevront une indemnité dont le montant sera arrêté entre les Parties contractantes.

Chaque Partie supportera ses propres frais et une part égale des frais de la Commission.

ART. 15. Durant le cours de la procédure de conciliation, les Parties contractantes s'abstiendront de tout acte pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission de conciliation.

ART. 16. Les contestations qui s'élèveraient entre les Parties contractantes au sujet de l'interprétation ou de l'exécution du présent traité pourront être soumises directement, par chacune des Parties, à la Cour permanente de Justice internationale.

ART. 17. Le présent traité sera ratifié et les instruments de ratification en seront échangés à Berne, dans le plus bref délai possible.

Le traité est conclu pour la durée de dix ans, à compter de l'échange des ratifications. S'il n'est pas dénoncé six mois avant l'expiration

which the Parties will be required to notify each other whether they accept its proposals. This period shall not, however, exceed three months.

If one of the Parties does not accept the Conciliation Commission's proposals, and does not make known its decision within the period fixed by the latter, and if the dispute belongs to one of the categories of disputes covered by Article 36 of the Statute of the Permanent Court of International Justice, either Party may have recourse to the Court of Justice by simple application.

ART. 14. For the actual duration of the procedure, the members of the Conciliation Commission shall receive an allowance to be fixed by arrangement between the Contracting Parties.

Each Party shall bear its own costs and half the costs of the Commission.

ART. 15. During the procedure of conciliation, the Contracting Parties shall abstain from all measures which might prejudicially affect the acceptance of the proposals of the Permanent Conciliation Commission.

ART. 16. Any disputes which may arise between the Contracting Parties with regard to the interpretation or execution of the present Treaty may be submitted direct by either of the Parties to the Permanent Court of International Justice.

ART. 17. The present Treaty shall be ratified and the instruments of ratification shall be exchanged at Berne as soon as possible.

The Treaty is concluded for a period of ten years from the date of exchange of ratifications. Unless

de ce terme, il demeurera en vigueur pour une nouvelle période de cinq ans, et ainsi de suite.

Si une procédure de conciliation est pendante lors de l'expiration du présent traité, elle suivra son cours conformément aux dispositions du présent traité ou de toute autre convention que les Parties contractantes seraient convenues de lui substituer.

En foi de quoi, les Plénipotentiaires respectifs ont signé le présent traité et l'ont revêtu de leurs sceaux.

Fait, en double exemplaire, à Oslo, le 21 août 1925.

Charles L. E. Lardy  
Joh. Ludw. Mowinckel

denounced at least six months before the expiration of this period, it shall remain in force for a further period of five years and similarly thereafter.

If a procedure of conciliation is pending at the time of the expiration of the present Treaty, it shall be allowed to take its normal course in conformity with the provisions of the present Treaty or of any other agreement which the Contracting Parties may have agreed to substitute therefor.

In faith whereof the Plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

Done in duplicate at Oslo, August 21, 1925.

Charles L. E. Lardy  
Joh. Ludw. Mowinckel

#### PERMANENT COMMISSION OF CONCILIATION

##### *President appointed by both Parties*

NICHOLAS POLITIS, Professor, Greek Minister to France, former Minister for Foreign Affairs of Greece. (*Greek.*)

##### *Members appointed by both Parties*

JULES PAMS, Senator. (*French.*)

COUNT L. BONIN-LONGARE, Senator, former Italian Ambassador to France. (*Italian.*)

##### *Member appointed by Norway*

JOHAN LUDWIG MOWINCKEL, Member of the Storting, former Prime Minister of Norway. (*Norwegian.*)

##### *Member appointed by Switzerland*

ROGER DOLLFUS, Member of the Swiss National Council. (*Swiss.*)



## No. 44

## GREECE-SWITZERLAND: TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Geneva September 21, 1925; ratifications exchanged February 28, 1929.

Original text from *Message du Conseil fédéral suisse*, No. 2073, March 5, 1926.

(Translation)

Le Conseil fédéral suisse et le Président de la République Hellénique

animés du désir de resserrer les liens d'amitié qui unissent la Suisse et la Grèce et de résoudre autant que possible, par voie de conciliation ou de règlement judiciaire, les différends qui viendraient à s'élever entre les deux pays,

ont résolu de conclure à cet effet un traité et ont désigné leurs Plénipotentiaires, savoir:

Le Conseil fédéral suisse:

Monsieur Giuseppe Motta, Conseiller fédéral, Chef du Département Politique Fédéral;

Le Président de la République Hellénique:

Monsieur Alexandre Carapano, Envoyé extraordinaire et Ministre plénipotentiaire de la République Hellénique à Paris;

lesquels, après s'être fait connaître leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Les Parties contractantes s'engagent à soumettre à une procédure de conciliation tous les différends, de quelque nature qu'ils soient, qui s'élèveraient entre elles et n'auraient pu être résolus par la voie diplomatique dans un délai raisonnable.

The Swiss Federal Council and the President of the Greek Republic, being desirous of strengthening the bonds of friendship which exist between Switzerland and Greece, and of settling as far as possible, by way of conciliation or judicial settlement, any disputes which may arise between the two countries,

Have resolved to conclude a treaty for this purpose, and have appointed as their Plenipotentiaries:

The Swiss Federal Council:

M. Giuseppe Motta, Federal Councillor, Head of the Federal Political Department;

The President of the Greek Republic:

M. Alexandre Carapano, Envoy Extraordinary and Minister Plenipotentiary of the Greek Republic in Paris,

Who, having communicated their full powers, found in good and due form, have agreed as follows:

ARTICLE 1. The Contracting Parties undertake to submit to a procedure of conciliation all disputes of any nature whatever which may arise between them and which it may not have been possible to settle within a reasonable time by diplomacy.

En cas d'échec de la procédure de conciliation, un règlement judiciaire sera recherché conformément aux articles 15 et suivants du présent traité.

Demeurent réservés les différends pour la solution desquels une procédure spéciale est prescrite par d'autres conventions en vigueur entre les Parties contractantes.

ART. 2. S'il s'agit d'un différend qui, à teneur de la législation intérieure de l'une des Parties, relève de la compétence des tribunaux, la Partie défenderesse pourra s'opposer à ce qu'il soit soumis à une procédure de conciliation et, le cas échéant, à un règlement judiciaire avant qu'un jugement définitif ait été rendu par l'autorité judiciaire compétente.

La demande de conciliation devra, dans ce cas, être formée une année, au plus tard, à compter de ce jugement.

ART. 3. Les parties contractantes institueront une Commission permanente de conciliation composée de trois membres.

Elles nommeront chacune un membre à leur gré et désigneront le Président d'un commun accord. Le Président ne devra ni être ressortissant des Parties contractantes ni avoir son domicile sur leur territoire ou se trouver à leur service.

Tant que la procédure n'est pas ouverte, chacune des Parties contractantes aura le droit de révoquer le Commissaire nommé par elle et de lui désigner un successeur, comme aussi de retirer son consentement à la nomination du Président. Dans ce cas, il y aura lieu de procéder sans délai au remplacement des membres dont le mandat a pris fin.

Il sera pourvu au remplacement des Commissaires selon le mode fixé pour leur nomination.

In the event of the procedure of conciliation proving unsuccessful, a judicial settlement shall be sought in conformity with Articles 15 and following of the present Treaty.

The above shall not apply to disputes for the settlement of which a special procedure is laid down by other Conventions in force between the Contracting Parties.

ART. 2. In the case of a dispute which, according to the domestic legislation of one of the Parties, comes within the jurisdiction of the Courts, the defendant Party may oppose the submission of the dispute to a procedure of conciliation or, alternatively, to a judicial settlement, until a final judgment has been given by the competent judicial authority.

In this case the request for conciliation procedure must be made within a year at most from the date of such judgment.

ART. 3. The Contracting Parties shall establish a Permanent Conciliation Commission composed of three members.

Each Party shall nominate one member of its own choosing, the President being appointed by agreement between the Parties. The President must not be a national of the Contracting Parties, nor be domiciled in their territory, nor be employed in their service.

So long as the procedure has not begun, each Contracting Party shall have the right to revoke the appointment of its nominee and to replace him by another, and also to withdraw its consent to the appointment of the President. In this case the necessary replacement shall be effected without delay.

Members shall be replaced under the same conditions as were observed in their appointment.

**ART. 4.** La Commission de conciliation sera constituée dans les six mois qui suivront l'échange des ratifications du présent traité.

Si la nomination du Président n'intervenait pas dans ledit délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, il sera désigné, à défaut d'entente entre les Parties et à la requête de l'une d'entre elles, par le Président des Etats-Unis d'Amérique, s'il y consent.

**ART. 5.** La Commission de conciliation aura pour tâche de faciliter la solution du différend, en éclaircissant, par un examen impartial et consciencieux, les questions de fait et en formulant des propositions en vue du règlement de la contestation.

Elle sera saisie sur requête adressée à son Président par l'une des Parties contractantes.

Notification de cette requête sera faite, en même temps, à la Partie adverse par la Partie qui demande l'ouverture de la procédure de conciliation.

**ART. 6.** La Commission de conciliation se réunira, sauf convention contraire, au lieu désigné par son Président.

**ART. 7.** La procédure devant la Commission de conciliation sera contradictoire.

La Commission réglera elle-même la procédure, en tenant compte, sauf décision contraire prise à l'unanimité, des dispositions contenues au titre III de la Convention de La Haye pour le règlement pacifique des conflits internationaux, du 18 octobre 1907.

**ART. 4.** The Conciliation Commission shall be set up within six months after the ratifications of the present Treaty have been exchanged.

If the appointment of the President is not made within this period, or, in case of his replacement, within three months after the vacancy occurs, he shall, failing agreement between the Parties and at the request of either of them, be appointed by the President of the United States of America, if the latter agrees thereto.

**ART. 5.** The task of the Conciliation Commission shall be to further the settlement of the dispute by an impartial and conscientious examination of the facts and by formulating proposals with a view to settling the case.

The Commission shall be informed of a question by an application addressed to its President by one of the Contracting Parties.

Notification of this application shall be made at the same time to the opposing Party by the Party which is requesting the institution of the procedure of conciliation.

**ART. 6.** The Conciliation Commission shall meet at the place chosen by the President, unless there is an agreement to the contrary.

**ART. 7.** In proceedings before the Conciliation Commission both Parties shall be heard.

The Commission shall draw up its own rules of procedure, regard being had to the regulations laid down in Part III of the Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes, unless the Commission unanimously decides otherwise.

**ART. 8.** Les délibérations de la Commission de conciliation auront lieu à huis clos, à moins que la Commission, d'accord avec les Parties, n'en décide autrement.

**ART. 9.** Les Parties contractantes auront le droit de nommer, auprès de la Commission de conciliation, des agents spéciaux, qui serviront, en même temps, d'intermédiaires entre elles et la Commis-

**ART. 10.** Sauf disposition contraire du présent traité, les décisions de la Commission de conciliation seront prises à la majorité simple des voix.

**ART. 11.** Les Parties contractantes s'engagent à faciliter, dans la plus large mesure possible, les travaux de la Commission de conciliation et, en particulier, à user de tous les moyens dont elles disposent, d'après leur législation intérieure, pour lui permettre de procéder, sur leur territoire, à la citation et à l'audition de témoins ou d'experts, ainsi qu'à des descentes sur les lieux.

**ART. 12.** La Commission de conciliation présentera son rapport dans les six mois à compter du jour où elle aura été saisie du différend, à moins que les Parties contractantes ne décident, d'un commun accord, de proroger ce délai.

Un exemplaire du rapport sera remis à chacune des Parties.

Le rapport de la Commission n'aura, ni en ce qui concerne l'exposé des faits, ni en ce qui concerne les considérations juridiques, le caractère d'une sentence arbitrale.

**ART. 13.** La Commission de conciliation fixera le délai dans lequel les Parties auront à se prononcer à l'égard de ses propositions.

**ART. 8.** The deliberations of the Conciliation Commission shall be in private, unless in agreement with the Parties the Commission decides otherwise.

**ART. 9.** The Contracting Parties shall be entitled to accredit special agents to the Conciliation Commission. These agents shall also act as intermediaries between the Parties and the Commission.

**ART. 10.** The Conciliation Commission shall take its decisions by a majority vote of its members, except as otherwise laid down in the present Treaty.

**ART. 11.** The Contracting Parties undertake to give the Conciliation Commission all possible assistance in its work, and, in particular, to employ all the means placed at their disposal by their domestic legislation to enable it to call and hear witnesses or experts within their territory as well as to carry out investigations on the spot.

**ART. 12.** The Conciliation Commission shall make its report within six months from the day on which the dispute is submitted to it, unless the Contracting Parties agree to an extension of this period.

A copy of the report shall be sent to each Party.

The report of the Commission shall not be in the nature of an arbitral award, as regards either the statement of facts or the legal considerations.

**ART. 13.** The Conciliation Commission shall fix the period within which the Parties will be required to take their decision as regards its proposals.

Ce délai n'excédera pas, toutefois, la durée de trois mois.

ART. 14. Pendant la durée effective de la procédure, les membres de la Commission de conciliation recevront une indemnité dont le montant sera arrêté entre les Parties contractantes.

Chaque Partie supportera ses propres frais et une part égale des frais de la Commission.

ART. 15. Si l'une des Parties n'accepte pas les propositions de la Commission de conciliation ou ne se prononce pas dans le délai fixé par son rapport, chacune d'elles pourra demander que le litige soit soumis à la Cour permanente de Justice internationale.

Dans le cas où, de l'avis de la Cour de Justice, le litige ne serait pas d'ordre juridique, les Parties conviennent qu'il sera tranché *ex aequo et bono*.

ART. 16. Les Parties contractantes établiront, dans chaque cas particulier, un compromis spécial déterminant nettement l'objet du différend, les compétences particulières qui pourraient être dévolues à la Cour permanente de Justice internationale, ainsi que toutes autres conditions arrêtées entre elles.

Le compromis sera établi par échange de notes entre les gouvernements des Parties contractantes.

Il sera interprété en tous points par la Cour de Justice.

Si le compromis n'est pas arrêté dans les trois mois à compter du jour où l'une des Parties a été saisie d'une demande aux fins de règlement judiciaire, chaque Partie pourra saisir la Cour de Justice par voie de simple requête.

This period shall not, however, exceed three months.

ART. 14. For the actual duration of the procedure, the members of the Conciliation Commission shall receive an allowance to be fixed by an arrangement between the Contracting Parties.

Each Party shall bear its own costs and half the costs of the Commission.

ART. 15. If one of the Parties does not accept the proposals of the Conciliation Commission, or does not announce its decision within the period prescribed in the report, either Party may request that the dispute be submitted to the Permanent Court of International Justice.

If, in the opinion of the Court of Justice, the case is not of a juridical nature, the Parties agree to its being settled *ex aequo et bono*.

ART. 16. In each particular case the Contracting Parties shall draw up a special agreement specifying clearly the subject of the dispute, the particular competence that might devolve upon the Permanent Court of International Justice, and any other conditions fixed between themselves.

The agreement shall be constituted by an exchange of notes between the Governments of the Contracting Parties.

All points contained therein shall be interpreted by the Court of Justice.

If the agreement is not drawn up within three months from the day on which one of the Parties was requested to submit the matter for judicial settlement, either Party may bring the question before the Court of Justice by a simple application.

ART. 17. Si la Cour permanente de Justice internationale établissait qu'une décision d'une instance judiciaire ou de toute autre autorité relevant de l'une des Parties contractantes se trouve entièrement ou partiellement en opposition avec le droit des gens, et si le droit constitutionnel de cette Partie ne permettrait pas ou ne permettait qu'imparfaitement d'effacer par voie administrative les conséquences de la décision dont il s'agit, il serait accordé à la Partie lésée une satisfaction équitable d'un autre ordre.

ART. 18. L'arrêt rendu par la Cour permanente de Justice internationale sera exécuté de bonne foi par les Parties.

Les difficultés auxquelles son interprétation pourrait donner lieu seront tranchées par la Cour de Justice, que chacune des Parties pourra saisir à cette fin par voie de simple requête.

ART. 19. Durant le cours de la procédure de conciliation ou de la procédure judiciaire, les Parties contractantes s'abstiendront de toute mesure pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission de conciliation ou sur l'exécution de l'arrêt de la Cour permanente de Justice internationale.

ART. 20. Les contestations qui surgiraient au sujet de l'interprétation ou de l'exécution du présent traité seront, sauf convention contraire, soumises directement à la Cour permanente de Justice internationale par voie de simple requête.

ART. 21. Le présent traité sera ratifié. Les instruments de ratification en seront échangés à Berne, dans le plus bref délai possible.

ART. 17. Should the Permanent Court of International Justice find that a decision of a court of law or other authority of one of the Contracting Parties is wholly or partly at variance with international law, and should the constitutional law of that Party not allow, or only inadequately allow, the cancellation of this decision by administrative procedure, the Party prejudiced shall be granted equitable satisfaction in some other form.

ART. 18. The judgment given by the Permanent Court of International Justice shall be acted upon by the Parties in good faith.

Any difficulties regarding the interpretation of the judgment shall be settled by the Court of Justice upon a simple application for this purpose by either Party.

ART. 19. During the procedure of conciliation or the judicial procedure, the Contracting Parties shall abstain from all measures which might prejudicially affect the acceptance of the proposals of the Conciliation Commission or the execution of the judgment of the Permanent Court of International Justice.

ART. 20. Any disputes which may arise as to the interpretation or the application of the present Treaty shall, unless there is an agreement to the contrary, be submitted directly to the Permanent Court of International Justice by simple application.

ART. 21. The present Treaty shall be ratified. The instruments of ratification shall be exchanged at Berne as soon as possible.

Le traité entrera en vigueur dès l'échange des ratifications. Il est conclu pour la durée de dix ans à compter de son entrée en vigueur. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il sera censé être renouvelé pour une nouvelle période de cinq ans, et ainsi de suite.

Si une procédure de conciliation ou une procédure judiciaire est pendante lors de l'expiration du présent traité, elle suivra son cours conformément aux dispositions du présent traité ou de toute autre convention que les Parties contractantes seraient convenues de lui substituer.

En foi de quoi, les Plénipotentiaires ont signé le présent traité.

Fait, en double exemplaire, à Genève, le vingt et un septembre mil neuf cent vingt-cinq.

Motta

Al. C. Carapano

The Treaty shall come into force as soon as the instruments of ratification have been exchanged. It is concluded for a period of ten years from the date of its coming into force. Unless denounced six months before the expiration of this period, it shall be deemed to have been renewed for a further period of five years, and similarly thereafter.

If a procedure of conciliation or a judicial procedure is pending at the time of the expiration of the present Treaty, it shall pursue its course in accordance with the provisions of the Present Treaty or any other convention which the Contracting Parties may have agreed to substitute therefor.

In witness whereof the Plenipotentiaries have signed the present Treaty.

Done in duplicate, at Geneva, September the twenty-first, one thousand nine hundred and twenty-five.

Motta

Al. C. Carapano

#### PERMANENT COMMISSION OF CONCILIATION

##### *President appointed by both Parties*

ÖSTEN UNDEN, Professor at the University of Upsala, former Minister for Foreign Affairs of Sweden. (*Swedish.*)

##### *Member appointed by Switzerland*

ALEXANDRE MORIAUD, Member of the Council of States. (*Swiss.*)

##### *Member appointed by Greece*

N. POLITIS, Professor, Greek Minister at Paris. (*Greek.*)

## No. 45

BELGIUM-GERMANY: TREATY OF CONCILIATION,  
ARBITRATION, AND COMPULSORY ADJUDICATION

Agreed upon at Locarno October 16, 1925; signed at London December 1, 1925; ratifications deposited September 14, 1926.

Original text from Germany, *Reichsgesetzblatt*, 1926, II, No. 42; <sup>1</sup> English translation from League of Nations, *Treaty Series*, LIV, 305-313.

(Translation)

Les soussignés dûment autorisés, chargés par leurs Gouvernements respectifs de fixer les modalités suivant lesquelles il sera, ainsi qu'il est prévu dans l'article 3 du traité conclu en date de ce jour entre l'Allemagne, la Belgique, la France, la Grande-Bretagne et l'Italie, procédé à la solution pacifique de toutes les questions qui ne pourraient être résolues à l'amiable entre l'Allemagne et la Belgique,

Sont convenus des dispositions suivantes:

The undersigned duly authorised, Charged by their respective Governments to determine the methods by which, as provided in Article 3 of the Treaty concluded this day between Germany, Belgium, France, Great Britain and Italy, a peaceful solution shall be attained of all questions which cannot be settled amicably between Germany and Belgium,

Have agreed as follows:

## PARTIE I

ARTICLE 1<sup>er</sup>. Toutes contestations entre l'Allemagne et la Belgique, de quelque nature qu'elles soient, au sujet desquelles les Parties se contesteraient réciproquement un droit, et qui n'auraient pu être réglées à l'amiable par les procédés diplomatiques ordinaires seront soumises pour jugement soit à un tribunal arbitral soit à la Cour Permanente de Justice Internationale ainsi qu'il est prévu ci-après. Il est entendu que les contestations ci-dessus visées comprennent notamment celles que mentionne l'article 13 du Pacte de la Société des Nations.

Cette disposition ne s'applique pas aux contestations nées de faits qui sont antérieurs à la présente

## PART I

ARTICLE 1. All disputes of every kind between Germany and Belgium with regard to which the Parties are in conflict as to their respective rights, and which it may not be possible to settle amicably by the normal methods of diplomacy, shall be submitted for decision either to an arbitral tribunal or to the Permanent Court of International Justice, as laid down hereafter. It is agreed that the disputes referred to above include in particular those mentioned in Article 13 of the Covenant of the League of Nations.

This provision does not apply to disputes arising out of events prior to the present Convention and belonging to the past.



convention et qui appartiennent au passé.

Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres conventions en vigueur entre l'Allemagne et la Belgique seront réglées conformément aux dispositions de ces conventions.

ART. 2. Avant toute procédure arbitrale ou avant toute procédure devant la Cour Permanente de Justice Internationale, la contestation pourra être, d'un commun accord entre les Parties, soumise à fin de conciliation à une commission internationale permanente, dite Commission Permanente de Conciliation, constituée conformément à la présente convention.

ART. 3. S'il s'agit d'une contestation dont l'objet, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux de celles-ci, le différend ne sera soumis à la procédure prévue par la présente convention qu'après jugement passé en force de chose jugée rendu, dans des délais raisonnables, par l'autorité judiciaire nationale compétente.

ART. 4. La Commission Permanente de Conciliation prévue à l'article 2 sera composée de cinq membres, qui seront désignés comme il suit, savoir: le Gouvernement allemand et le Gouvernement belge nommeront chacun un commissaire choisi parmi leurs nationaux respectifs et désigneront, d'un commun accord, les trois autres commissaires parmi les ressortissants de tierces Puissances; ces trois commissaires devront être de nationalités différentes et, parmi eux les Gouvernements allemand

Disputes for the settlement of which a special procedure is laid down in other conventions in force between Germany and Belgium shall be settled in conformity with the provisions of those conventions.

ART. 2. Before any resort is made to arbitral procedure or to procedure before the Permanent Court of International Justice, the dispute may, by agreement between the Parties, be submitted, with a view to amicable settlement, to a permanent international commission styled the *Permanent Conciliation Commission*, constituted in accordance with the present Convention.

ART. 3. In the case of a dispute the occasion of which, according to the municipal law of one of the Parties, falls within the competence of the national courts of such Party, the matter in dispute shall not be submitted to the procedure laid down in the present Convention until a judgment with final effect has been pronounced, within a reasonable time, by the competent national judicial authority.

ART. 4. The Permanent Conciliation Commission mentioned in Article 2 shall be composed of five members, who shall be appointed as follows, that is to say: the German Government and the Belgian Government shall each nominate a commissioner chosen from among their respective nationals, and shall appoint, by common agreement, the three other commissioners from among the nationals of third Powers; these three commissioners must be of different nationalities, and the German and Belgian Gov-

et belge désigneront le président de la commission.

Les commissaires sont nommés pour trois ans; leur mandat est renouvelable. Ils resteront en fonctions jusqu'à leur remplacement et, dans tous les cas, jusqu'à l'achèvement de leurs travaux en cours au moment de l'expiration de leur mandat.

Il sera pourvu, dans le plus bref délai, aux vacances qui viendraient à se produire, par suite de décès, de démission ou de quelque autre empêchement, en suivant le mode fixé pour les nominations.

ART. 5. La Commission Permanente de Conciliation sera constituée dans les trois mois qui suivront l'entrée en vigueur de la présente convention.

Si la nomination des commissaires à désigner en commun n'intervenait pas dans ledit délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, le Président de la Confédération suisse sera, à défaut d'autre entente, prié de procéder aux désignations nécessaires.

ART. 6. La Commission Permanente de Conciliation sera saisie par voie de requête adressée au président par les deux Parties agissant d'un commun accord ou, à défaut, par l'une ou l'autre des Parties.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la commission de procéder à toutes mesures propres à conduire à une conciliation.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à la Partie adverse.

ernments shall appoint the president of the commission from among them.

The commissioners are appointed for three years, and their mandate is renewable. Their appointment shall continue until their replacement and, in any case, until the termination of the work in hand at the moment of the expiry of their mandate.

Vacancies which may occur as a result of death, resignation or any other cause shall be filled within the shortest possible time in the manner fixed for the nominations.

ART. 5. The Permanent Conciliation Commission shall be constituted within three months from the entry into force of the present Convention.

If the nomination of the commissioners to be appointed by common agreement should not have taken place within the said period, or, in the case of the filling of a vacancy, within three months from the time when the seat falls vacant, the President of the Swiss Confederation shall, in the absence of other agreement, be requested to make the necessary appointments.

ART. 6. The Permanent Conciliation Commission shall be informed by means of a request addressed to the president by the two Parties acting in agreement, or, in the absence of such agreement, by one or other of the Parties.

The request, after having given a summary account of the subject of the dispute, shall contain the invitation to the commission to take all necessary measures with a view to arriving at an amicable settlement.

If the request emanates from only one of the Parties, notification thereof shall be made without delay to the other Party.

ART. 7. Dans un délai de 15 jours à partir de la date où le Gouvernement allemand ou le Gouvernement belge aurait porté une contestation devant la Commission Permanente de Conciliation, chacune des Parties pourra, pour l'examen de cette contestation, remplacer son commissaire par une personne possédant une compétence spéciale dans la matière.

La Partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie; celle-ci aura, dans ce cas, la faculté d'agir de même dans un délai de 15 jours à partir de la date où la notification lui sera parvenue.

ART. 8. La Commission Permanente de Conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

A la fin de ses travaux, la commission dressera un procès-verbal constatant, suivant le cas, soit que les Parties se sont arrangées et, s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la commission devront, à moins que les Parties en conviennent différemment, être terminés dans le délai de six mois à compter du jour où la commission aura été saisie du litige.

ART. 9. A moins de stipulation spéciale contraire, la Commission Permanente de Conciliation réglera elle-même sa procédure qui, dans tous les cas, devra être contradic-

ART. 7. Within fifteen days from the date when the German Government or the Belgian Government shall have brought a dispute before the Permanent Conciliation Commission, either Party may, for the examination of the particular dispute, replace its commissioner by a person possessing special competence in the matter.

The Party making use of this right shall immediately inform the other Party; the latter shall in that case be entitled to take similar action within fifteen days from the date when the notification reaches it.

ART. 8. The task of the Permanent Conciliation Commission shall be to elucidate questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of settlement which seem suitable to it, and lay down a period within which they are to make their decision.

At the close of its labours the commission shall draw up a report stating, as the case may be, either that the Parties have come to an agreement and, if need arises, the terms of the agreement, or that it has been impossible to effect a settlement.

The labours of the commission must, unless the Parties otherwise agree, be terminated within six months from the day on which the commission shall have been notified of the dispute.

ART. 9. Failing any special provision to the contrary, the Permanent Conciliation Commission shall lay down its own procedure, which in any case must provide for both

toire. En matière d'enquêtes, la commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du Titre III (Commissions internationales d'enquête) de la Convention de La Haye du 18 octobre 1907 pour le Règlement pacifique des Conflits internationaux.

ART. 10. La Commission Permanente de Conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son président.

ART. 11. Les travaux de la Commission Permanente de Conciliation ne sont publics qu'en vertu d'une décision prise par la commission avec l'assentiment des Parties.

ART. 12. Les Parties seront représentées auprès de la Commission Permanente de Conciliation par des agents ayant mission de servir d'intermédiaires entre elles et la commission; elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraît utile.

La commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement.

ART. 13. Sauf disposition contraire de la présente convention, les décisions de la Commission Permanente de Conciliation seront prises à la majorité des voix.

ART. 14. Les Gouvernements allemand et belge s'engagent à faciliter les travaux de la Commission Permanente de Conciliation et,

Parties being heard. In regard to enquiries, the commission, unless it decides unanimously to the contrary, shall act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of the Hague Convention, of the 18th October 1907, for the Pacific Settlement of International Disputes.

ART. 10. The Permanent Conciliation Commission shall meet, in the absence of agreement by the Parties to the contrary, at a place selected by its president.

ART. 11. The labours of the Permanent Conciliation Commission are not public, except when a decision to that effect has been taken by the commission with the consent of the Parties.

ART. 12. The Parties shall be represented before the Permanent Conciliation Commission by agents, whose duty it shall be to act as intermediaries between them and the commission; they may, moreover, be assisted by counsel and experts appointed by them for that purpose, and request that all persons whose evidence appears to them useful should be heard.

The commission, on its side, shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties, as well as from all persons it may think useful to summon with the consent of their Government.

ART. 13. Unless otherwise provided in the present Convention, the decisions of the Permanent Conciliation Commission shall be taken by a majority.

ART. 14. The German and Belgian Governments undertake to facilitate the labours of the Permanent Conciliation Commission,

en particulier, à lui fournir dans la plus large mesure possible tous documents et informations utiles, ainsi qu'à user des moyens dont ils disposent pour leur permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

ART. 15. Pendant la durée des travaux de la Commission Permanente de Conciliation, chacun des commissaires recevra une indemnité dont le montant sera arrêté, d'un commun accord, entre les Gouvernements allemand et belge, qui en supporteront chacun une part égale.

ART. 16. A défaut de conciliation devant la Commission Permanente de Conciliation, la contestation sera soumise par voie de compromis soit à la Cour Permanente de Justice Internationale dans les conditions et suivant la procédure prévues par son statut, soit à un tribunal arbitral dans les conditions et suivant la procédure prévues par la Convention de La Haye du 18 octobre 1907 pour le Règlement pacifique des Conflits internationaux.

A défaut d'accord entre les Parties sur le compromis et après un préavis d'un mois, l'une et l'autre d'entre elles aura la faculté de porter directement par voie de requête la contestation devant la Cour Permanente de Justice Internationale.

## PARTIE II

ART. 17. Toutes questions sur lesquelles le Gouvernement allemand et le Gouvernement belge seraient divisés sans pouvoir les résoudre à l'amiable par les procédés diplomatiques ordinaires,

and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to allow it to proceed in their territory and in accordance with their law to the summoning and hearing of witnesses or experts, and to visit the localities in question.

ART. 15. During the labours of the Permanent Conciliation Commission, each commissioner shall receive salary, the amount of which shall be fixed by agreement between the German and Belgian Governments, each of which shall contribute an equal share.

ART. 16. In the event of no amicable agreement being reached before the Permanent Conciliation Commission the dispute shall be submitted by means of a special agreement either to the Permanent Court of International Justice under the conditions and according to the procedure laid down by its statute or to an arbitral tribunal under the conditions and according to the procedure laid down by The Hague Convention of the 18th October 1907, for the Pacific Settlement of International Disputes.

If the Parties cannot agree on the terms of the special agreement after a month's notice one or other of them may bring the dispute before the Permanent Court of International Justice by means of an application.

## PART II

ART. 17. All questions on which the German and Belgian Governments may differ without being able to reach an amicable solution by means of the normal methods of diplomacy the settlement of which

dont la solution ne pourrait être recherchée par un jugement ainsi qu'il est prévu par l'article 1<sup>er</sup> de la présente convention et pour lesquelles une procédure de règlement ne serait pas déjà prévue par d'autres conventions en vigueur entre les Parties, seront soumises à la Commission Permanente de Conciliation qui sera chargée de proposer aux Parties un solution acceptable et, dans tous les cas, de présenter un rapport.

La procédure prévue par les articles 6 à 15 de la présente convention sera appliquée.

ART. 18. Si, dans le mois qui suivra la clôture des travaux de la Commission Permanente de Conciliation, les deux Parties ne se sont pas entendues, la question sera, à la requête de l'une ou de l'autre Partie, portée devant le Conseil de la Société des Nations, qui statuera conformément à l'article 15 du Pacte de la Société.

#### DISPOSITIONS GÉNÉRALES

ART. 19. Dans tous les cas et notamment si la question, au sujet de laquelle les Parties sont divisées résulte d'actes déjà effectués ou sur le point de l'être, la Commission de Conciliation ou, si celle-ci ne s'en trouvait pas saisie, le tribunal arbitral ou la Cour Permanente de Justice Internationale statuant conformément à l'article 41 de son statut, indiqueront dans le plus bref délai possible, quelles mesures provisoires doivent être prises. Il appartiendra au Conseil de la Société des Nations, s'il est saisi de la question, de pourvoir de même à des mesures provisoires appropriées. Les Gouvernements allemand et belge s'engagent respectivement à s'y conformer, à s'abstenir de toute mesure susceptible d'avoir

cannot be attained by means of a judicial decision as provided in Article 1 of the present Convention, and for the settlement of which no procedure has been laid down by other conventions in force between the Parties, shall be submitted to the Permanent Conciliation Commission, whose duty it shall be to propose to the Parties an acceptable solution and in any case to present a report.

The procedure laid down in Articles 6-15 of the present Convention shall be applicable.

ART. 18. If the two Parties have not reached an agreement within a month from the termination of the labours of the Permanent Conciliation Commission, the question shall, at the request of either Party, be brought before the Council of the League of Nations, which shall deal with it in accordance with Article 15 of the Covenant of the League.

#### GENERAL PROVISIONS

ART. 19. In any case, and particularly if the question on which the Parties differ arises out of acts already committed or on the point of commission, the Conciliation Commission or, if the latter has not been notified thereof, the arbitral tribunal or the Permanent Court of International Justice, acting in accordance with Article 41 of its statute, shall lay down within the shortest possible time the provisional measures to be adopted. It shall similarly be the duty of the Council of the League of Nations, if the question is brought before it, to ensure that suitable provisional measures are taken. The German and Belgian Governments undertake respectively to accept such measures, to abstain from all meas-

une répercussion préjudiciable à l'exécution de la décision ou aux arrangements proposés par la Commission de Conciliation ou par le Conseil de la Société des Nations, et en général, à ne procéder à aucun acte, de quelque nature qu'il soit, susceptible d'aggraver ou d'étendre le différend.

ART. 20. La présente convention reste applicable entre l'Allemagne et la Belgique encore que d'autres Puissances aient également un intérêt dans le différend.

ART. 21. La présente convention sera ratifiée. Les ratifications en seront déposées à Genève à la Société des Nations en même temps que les ratifications du traité conclu en date de ce jour entre l'Allemagne, la Belgique, la France, la Grande-Bretagne et l'Italie.

Elle entrera en demeure en vigueur dans les mêmes conditions ledit traité.

La présente convention, faite en un seul exemplaire, sera déposée aux archives de la Société des Nations, dont le Secrétaire Général sera prié de remettre à chacun des deux Gouvernements contractants des copies certifiées conformes.

Fait à Locarno, le 16 octobre 1925.

Gustav Stresemann  
Emile Vandervelde

ures likely to have a repercussion prejudicial to the execution of the decision or to the arrangements proposed by the Conciliation Commission or by the Council of the League of Nations, and, in general, to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

ART. 20. The present Convention continues applicable as between Germany and Belgium, even when other Powers are also interested in the dispute.

ART. 21. The present Convention shall be ratified. Ratifications shall be deposited at Geneva with the League of Nations at the same time as the ratifications of the Treaty concluded this day between Germany, Belgium, France, Great Britain and Italy.

It shall enter into and remain in force under the same conditions as the said Treaty.

The present Convention, done in a single copy, shall be deposited in the archives of the League of Nations, the Secretary-General of which shall be requested to transmit certified copies to each of the two contracting Governments.

Done at Locarno, October the sixteenth, nineteen hundred and twenty-five.

Gustav Stresemann  
Emile Vandervelde

#### PERMANENT COMMISSION OF CONCILIATION

(Appointed April 12, 1927)

##### *President appointed by both Parties*

G. MOTTA, Swiss Federal Councillor. (*Swiss.*)

##### *Members appointed by both Parties*

ÖSTEN UNDEN, Professor at the University of Upsala, former Minister for Foreign Affairs of Sweden. (*Swedish.*)

JONKHEER W. J. M. VAN EYSINGA, Professor at the University of Leyden. (*Dutch.*)

*Member appointed by Belgium*

LOUIS DE BROUCKÈRE, Senator, Professor at the University of Brussels.  
(*Belgian.*)

*Member appointed by Germany*

ERNST VON SIMSON, former Under-Secretary of State in the Ministry for Foreign Affairs. (*German.*)

## No. 46

CZECHOSLOVAKIA-GERMANY: TREATY OF CONCIL-  
IATION, ARBITRATION, AND COMPULSORY  
ADJUDICATION

Agreed upon at Locarno October 16, 1925; signed at London December 1, 1925; ratifications deposited September 14, 1926.

Original text from Germany, *Reichsgesetzblatt*, 1926, II, No. 42; <sup>1</sup> English translation from League of Nations, *Treaty Series*, I.IV, 343-351.

*(Translation)*

Le Président de l'Empire allemand et le Président de la République tchécoslovaque,

Egalement résolus à maintenir la paix entre l'Allemagne et la Tchécoslovaquie en assurant le règlement pacifique des différends qui viendraient à surgir entre les deux pays,

Constatant que le respect des droits établis par les traités ou résultant du droit des gens est obligatoire pour les tribunaux internationaux,

D'accord pour reconnaître que les droits d'un Etat ne sauraient être modifiés que de son consentement,

Et considérant que la sincère observation des procédés de règlement pacifique des différends internationaux permet de résoudre sans recourir à la force les questions qui viendraient à diviser les Etats,

Ont décidé de réaliser dans un traité leurs intentions communes à

The President of the German Empire and the President of the Czechoslovak Republic;

Equally resolved to maintain peace between Germany and Czechoslovakia by assuring the peaceful settlement of differences which might arise between the two countries;

Declaring that respect for the rights established by treaty or resulting from the law of nations is obligatory for international tribunals;

Agreeing to recognise that the rights of a State cannot be modified save with its consent;

And considering that sincere observance of the methods of peaceful settlement of international disputes permits of resolving, without recourse to force, questions which may become the cause of division between States;

Have decided to embody in a treaty their common intentions in

<sup>1</sup> See also League of Nations, *Treaty Series*, I.IV, 342.



cet égard et ont nommé pour leurs Plénipotentiaires, savoir:

Le Président de l'Empire allemand:

Dr. Gustav Stresemann, Ministre des Affaires Etrangères;

Le Président de la République tchécoslovaque:

Dr. Edouard Beneš, Ministre des Affaires Etrangères;

Lesquels, après avoir échangé leurs pleins pouvoirs reconnus en bonne et due forme, sont convenus des dispositions suivantes:

#### PARTIE I

ARTICLE 1. Toutes contestations entre l'Allemagne et la Tchécoslovaquie, de quelque nature qu'elles soient, au sujet desquelles les Parties se contesteraient réciproquement un droit, et qui n'auraient pu être réglées à l'amiable par les procédés diplomatiques ordinaires seront soumises pour jugement soit à un tribunal arbitral soit à la Cour Permanente de Justice Internationale ainsi qu'il est prévu ci-après. Il est entendu que les contestations ci-dessus visées comprennent notamment celles que mentionne l'article 13 du Pacte de la Société des Nations.

Cette disposition ne s'applique pas aux contestations nées de faits qui sont antérieurs au présent traité et qui appartiennent au passé.

Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres conventions en vigueur entre les Hautes Parties contractantes seront réglées conformément aux dispositions de ces conventions.

ART. 2. Avant toute procédure arbitrale ou avant toute procédure devant la Cour Permanente de Justice Internationale, la contes-

this respect, and have named as their Plenipotentiaries the following:

The President of the German Empire:

Dr. Gustav Stresemann, Minister for Foreign Affairs;

The President of the Czechoslovak Republic:

Dr. Edouard Beneš, Minister for Foreign Affairs;

Who, having exchanged their full powers, found in good and due form, are agreed upon the following Articles:

#### PART I

ARTICLE 1. All disputes of every kind between Germany and Czechoslovakia with regard to which the Parties are in conflict as to their respective rights, and which it may not be possible to settle amicably by the normal methods of diplomacy, shall be submitted for decision either to an arbitral tribunal or to the Permanent Court of International Justice as laid down hereafter. It is agreed that the disputes referred to above include, in particular, those mentioned in Article 13 of the Covenant of the League of Nations.

This provision does not apply to disputes arising out of events prior to the present Treaty and belonging to the past.

Disputes, for the settlement of which a special procedure is laid down in other conventions in force between the High Contracting Parties, shall be settled in conformity with the provisions of those Conventions.

ART. 2. Before any resort is made to arbitral procedure or to procedure before the Permanent Court of International Justice, the

tation pourra être, d'un commun accord entre les Parties, soumise à fin de conciliation à une commission internationale permanente, dite "Commission Permanente de Conciliation," constituée conformément au présent traité.

ART. 3. S'il s'agit d'une contestation dont l'objet, d'après la législation intérieure de l'une des Parties relève de la compétence des tribunaux nationaux de celles-ci, le différend ne sera soumis à la procédure prévue par le présent traité qu'après jugement passé en force de chose jugée rendu, dans les délais raisonnables, par l'autorité judiciaire nationale compétente.

ART. 4. La Commission Permanente de Conciliation prévue à l'article 2 sera composée de cinq membres, qui seront désignés comme il suit, savoir: les Hautes Parties contractantes nommeront chacune un commissaire choisi parmi leurs nationaux respectifs et désigneront, d'un commun accord, les trois autres commissaires parmi les ressortissants de tierces Puissances; ces trois commissaires devront être de nationalités différentes et, parmi eux, les Hautes Parties contractantes désigneront le président de la commission.

Les commissaires sont nommés pour trois ans; leur mandat est renouvelable. Ils resteront en fonctions jusqu'à leur remplacement; et, dans tous les cas, jusqu'à l'achèvement de leurs travaux en cours au moment de l'expiration de leur mandat.

Il sera pourvu, dans le plus bref délai, aux vacances, qui viendraient à se produire, par suite de décès, de démission ou de quelque autre empêchement, en suivant le mode fixé pour les nominations.

dispute may, by agreement between the Parties, be submitted, with a view to amicable settlement, to a permanent international commission, styled the *Permanent Conciliation Commission*, constituted in accordance with the present Treaty.

ART. 3. In the case of a dispute the occasion of which, according to the municipal law of one of the Parties, falls within the competence of the national courts of such Party, the matter in dispute shall not be submitted to the procedure laid down in the present Treaty until a judgment with final effect has been pronounced, within a reasonable time, by the competent national judicial authority.

ART. 4. The Permanent Conciliation Commission mentioned in Article 2 shall be composed of five members, who shall be appointed as follows, that is to say: the High Contracting Parties shall each nominate a commissioner chosen from among their respective nationals, and shall appoint, by common agreement, the three other commissioners from among the nationals of third Powers; those three commissioners must be of different nationalities, and the High Contracting Parties shall appoint the president of the commission from among them.

The commissioners are appointed for three years, and their mandate is renewable. Their appointment shall continue until their replacement, and in any case until the termination of the work in hand at the moment of the expiry of their mandate.

Vacancies which may occur as a result of death, resignation or any other cause shall be filled within the shortest possible time in the manner fixed for the nominations.

ART. 5. La Commission Permanente de Conciliation sera constituée dans les trois mois qui suivront l'entrée en vigueur du présent traité:

Si la nomination des commissaires à désigner en commun n'intervenait pas dans ledit délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, le Président de la Confédération suisse sera, à défaut d'autre entente, prié de procéder aux désignations nécessaires.

ART. 6. La Commission Permanente de Conciliation sera saisie par voie de requête adressée au président par les deux parties agissant d'un commun accord ou, à défaut par l'une ou l'autre des parties.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la commission de procéder à toutes mesures propres à conduire à une conciliation.

Si la requête émane d'une seule des parties, elle sera notifiée par celle-ci sans délai à la Partie adverse.

ART. 7. Dans un délai de quinze jours à partir de la date où l'une des Hautes Parties contractantes aurait porté une contestation devant la Commission Permanente de Conciliation, chacune des Parties pourra, pour l'examen de cette contestation, remplacer son commissaire par une personne possédant une compétence spéciale dans la matière.

La Partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie; celle-ci aura, dans ce cas, la faculté d'agir de

ART. 5. The Permanent Conciliation Commission shall be constituted within three months from the entry into force of the present Treaty.

If the nomination of the commissioners to be appointed by common agreement should not have taken place within the said period, or, in the case of the filling of a vacancy, within three months from the time when the seat falls vacant, the President of the Swiss Confederation shall, in the absence of other agreement, be requested to make the necessary appointments.

ART. 6. The Permanent Conciliation Commission shall be informed by means of a request addressed to the president by the two Parties acting in agreement, or, in the absence of such agreement, by one or other of the Parties.

The request, after having given a summary account of the subject of the dispute, shall contain the invitation to the commission to take all necessary measures with a view to arriving at an amicable settlement.

If the request emanates from only one of the Parties, notification thereof shall be made without delay to the other Party.

ART. 7. Within fifteen days from the date when one of the High Contracting Parties shall have brought a dispute before the Permanent Conciliation Commission, either Party may, for the examination of the particular dispute, replace its commissioner by a person possessing special competence in the matter.

The Party making use of this right shall immediately inform the other Party; the latter shall in that case be entitled to take similar action within fifteen days from the

même dans un délai de quinze jours à partir de la date où la notification lui sera parvenue.

ART. 8. La Commission Permanente de Conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les parties. Elle pourra, après examen de l'affaire, exposer aux parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

A la fin de ses travaux, la Commission dressera un procès-verbal constatant, suivant le cas, soit que les Parties se sont arrangées et, s'il y a lieu, les conditions de l'arrangement, soit que les parties n'ont pu être conciliées.

Les travaux de la commission devront, à moins que les parties en conviennent différemment, être terminés dans le délai de six mois à compter du jour où la commission aura été saisie du litige.

ART. 9. A moins de stipulation spéciale contraire, la Commission Permanente de Conciliation réglera elle-même sa procédure qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du Titre III (Commissions internationales d'enquête) de la Convention de La Haye du 18 octobre 1907 pour le Règlement pacifique des Conflits internationaux.

ART. 10. La Commission Permanente de Conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son président.

date when the notification reaches it.

ART. 8. The task of the Permanent Conciliation Commission shall be to elucidate questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of settlement which seem suitable to it, and lay down a period within which they are to make their decision.

At the close of its labours the commission shall draw up a report stating, as the case may be, either that the Parties have come to an agreement and, if need arises, the terms of the agreement, or that it has been impossible to effect a settlement.

The labours of the commission must, unless the Parties otherwise agree, be terminated within six months from the day on which the commission shall have been notified of the dispute.

ART. 9. Failing any special provision to the contrary, the Permanent Conciliation Commission shall lay down its own procedure, which in any case must provide for both Parties being heard. In regard to enquiries, the commission, unless it decides unanimously to the contrary, shall act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of The Hague Convention of the 18th October, 1907, for the Pacific Settlement of International Disputes.

ART. 10. The Permanent Conciliation Commission shall meet, in the absence of agreement by the Parties to the contrary at a place selected by its president.

## POST-WAR TREATIES

ART. 11. Les travaux de la Commission Permanente de Conciliation ne sont publics qu'en vertu d'une décision prise par la commission avec l'assentiment des Parties.

ART. 12. Les Parties seront représentées auprès de la Commission Permanente de Conciliation par des agents ayant mission de servir d'intermédiaires entre elles et la commission; elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraît utile.

La commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement.

ART. 13. Sauf disposition contraire du présent traité, des décisions de la Commission Permanente de Conciliation seront prises à la majorité des voix.

ART. 14. Les Hautes Parties contractantes s'engagent à faciliter les travaux de la Commission Permanente de Conciliation et, en particulier, à lui fournir dans la plus large mesure possible tous documents et informations utiles, ainsi qu'à user des moyens dont elles disposent pour leur permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

ART. 15. Pendant la durée des travaux de la Commission Permanente de Conciliation, chacun des commissaires recevra une indemnité dont le montant sera arrêté,

ART. 11. The labours of the Permanent Conciliation Commission are not public except when a decision to that effect has been taken by the commission with the consent of the Parties.

ART. 12. The Parties shall be represented before the Permanent Conciliation Commission by agents, whose duty it shall be to act as intermediaries between them and the commission; they may moreover be assisted by counsel and experts appointed by them for that purpose, and request that all persons whose evidence appears to them useful should be heard.

The commission on its side shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties, as well as from all persons it may think useful to summon with the consent of their Government.

ART. 13. Unless otherwise provided in the present Treaty the decisions of the Permanent Conciliation Commission shall be taken by a majority.

ART. 14. The High Contracting Parties undertake to facilitate the labours of the Permanent Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to allow it to proceed in their territory and in accordance with their law to the summoning and hearing of witnesses or experts, and to visit the localities in question.

ART. 15. During the labours of the Permanent Conciliation Commission each commissioner shall receive salary, the amount of which shall be fixed by agreement be-

d'un commun accord entre les Hautes Parties contractantes qui en supporteront chacune une part égale.

ART. 16. A défaut de conciliation devant la Commission Permanente de Conciliation, la contestation sera soumise par voie de compromis soit à la Cour Permanente de Justice Internationale dans les conditions et suivant la procédure prévues par son statut, (soit à un Tribunal arbitral dans les conditions et suivant la procédure prévues par son statut,)<sup>1</sup> soit à un tribunal arbitral dans les conditions et suivant la procédure prévues par la Convention de La Haye du 18 octobre 1907 pour le Règlement pacifique des Conflits internationaux.

A défaut d'accord entre les Parties sur le compromis et après un préavis d'un mois, l'une ou l'autre d'entre elles aura la faculté de porter directement par voie de requête la contestation devant la Cour Permanente de Justice Internationale.

## PARTIE II

ART. 17. Toutes questions sur lesquelles le Gouvernement allemand et le Gouvernement tchécoslovaque seraient divisés sans pouvoir les résoudre à l'amiable par les procédés diplomatiques ordinaires, dont la solution ne pourrait être recherchée par un jugement ainsi qu'il est prévu par l'article 1<sup>er</sup> du présent traité et pour lesquelles une procédure de règlement ne serait pas déjà prévue par d'autres conventions en vigueur entre les Parties, seront soumises à la Commission Permanente de Conciliation qui sera chargée de proposer aux

tween the High Contracting Parties, each of which shall contribute an equal share.

ART. 16. In the event of no amicable agreement being reached before the Permanent Conciliation Commission the dispute shall be submitted by means of a special agreement either to the Permanent Court of International Justice under the conditions and according to the procedure laid down by its statute or to an arbitral tribunal under the conditions and according to the procedure laid down by The Hague Convention of the 18th October, 1907, for the Pacific Settlement of International Disputes.

If the Parties cannot agree on the terms of the special agreement after a month's notice one or other of them may bring the dispute before the Permanent Court of International Justice by means of an application.

## PART II

ART. 17. All questions on which the German and Czechoslovak Governments shall differ without being able to reach an amicable solution by means of the normal methods of diplomacy the settlement of which cannot be attained by means of a judicial decision as provided in Article 1 of the present Treaty, and for the settlement of which no procedure has been laid down by other conventions in force between the Parties, shall be submitted to the Permanent Conciliation Commission, whose duty it shall be to propose to the Parties

<sup>1</sup> These words are inserted by an obvious error on the part of copyist or printer.

Parties une solution acceptable et, dans tous les cas, de présenter un rapport.

La procédure prévue par les articles 6 à 15 du présent traité sera appliquée.

ART. 18. Si, dans le mois suivant la clôture des travaux de la Commission Permanente de Conciliation, les deux Parties ne se sont pas entendues, la question sera, à la requête de l'une ou de l'autre Partie, portée devant le Conseil de la Société des Nations, qui statuera conformément à l'article 15 du Pacte de la Société.

#### DISPOSITIONS GÉNÉRALES

ART. 19. Dans tous les cas et notamment si la question au sujet de laquelle les Parties sont divisées résulte d'actes déjà effectués ou sur le point de l'être, la Commission de Conciliation ou, si celle-ci ne s'en trouvait pas saisie, le tribunal arbitral ou la Cour Permanente de Justice Internationale statuant conformément à l'article 41 de son statut, indiqueront dans le plus bref délai possible, quelles mesures provisoires doivent être prises. Il appartiendra au Conseil de la Société des Nations, s'il est saisi de la question, de pourvoir de même à des mesures provisoires appropriées. Chacune des Hautes Parties contractantes s'engage à s'y conformer, à s'abstenir de toute mesure susceptible d'avoir une répercussion préjudiciable à l'exécution de la décision ou aux arrangements proposés par la Commission de Conciliation ou par le Conseil de la Société des Nations, et, en général, à ne procéder à aucun acte de quelque nature qu'il soit susceptible d'aggraver ou d'étendre le différend.

an acceptable solution and in any case to present a report.

The procedure laid down in Articles 6-15 of the present Treaty shall be applicable.

ART. 18. If the two Parties have not reached an agreement within a month from the termination of the labours of the Permanent Conciliation Commission the question shall, at the request of either Party, be brought before the Council of the League of Nations, which shall deal with it in accordance with Article 15 of the Covenant of the League.

#### GENERAL PROVISIONS

ART. 19. In any case, and particularly if the question on which the Parties differ arises out of acts already committed or on the point of commission, the Conciliation Commission or, if the latter has not been notified thereof, the arbitral tribunal or the Permanent Court of International Justice, acting in accordance with Article 41 of its statute, shall lay down within the shortest possible time the provisional measures to be adopted. It shall similarly be the duty of the Council of the League of Nations, if the question is brought before it, to ensure that suitable provisional measures are taken. The High Contracting Parties undertake respectively to accept such measures, to abstain from all measures likely to have a repercussion prejudicial to the execution of the decision or to the arrangements proposed by the Conciliation Commission or by the Council of the League of Nations, and in general to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

ART. 20. Le présent traité reste applicable entre les Hautes Parties contractantes encore que d'autres Puissances aient également un intérêt dans le différend.

ART. 21. Le présent traité conforme au Pacte de la Société des Nations ne portera aucune atteinte aux droits et obligations des Hautes Parties contractantes en tant que membres de la Société des Nations et ne sera pas interprété comme restreignant la mission de celle-ci de prendre les mesures propres à sauvegarder efficacement la paix du monde.

ART. 22. Le présent traité sera ratifié. Les ratifications en seront déposées à Genève à la Société des Nations en même temps que les ratifications du traité conclu en date de ce jour entre l'Allemagne, la Belgique, la France, la Grande-Bretagne et l'Italie.

Il entrera et demeurera en vigueur dans les mêmes conditions que ledit traité.

Le présent traité, fait en un seul exemplaire, sera déposé aux archives de la Société des Nations, dont le Secrétaire Général sera prié de remettre à chacune des Hautes Parties contractantes des copies certifiées conformes.

En foi de quoi les Plénipotentiaires susnommés ont signé le présent traité.

Fait à Locarno, le seize octobre, mil neuf cent vingt-cinq.

Gustav Stresemann  
Dr. Eduard Beneš

ART. 20. The present Treaty continues applicable as between the High Contracting Parties even when other Powers are also interested in the dispute.

ART. 21. The present Treaty, which is in conformity with the Covenant of the League of Nations, shall not in any way affect the rights and obligations of the High Contracting Parties as Members of the League of Nations and shall not be interpreted as restricting the duty of the League to take whatever action may be deemed wise and effectual to safeguard the peace of the world.

ART. 22. The present Treaty shall be ratified. Ratifications shall be deposited at Geneva with the League of Nations at the same time as the ratifications of the Treaty concluded this day between Germany, Belgium, France, Great Britain and Italy.

It shall enter into and remain in force under the same conditions as the said Treaty.

The present Treaty, done in a single copy, shall be deposited in the archives of the League of Nations, the Secretary-General of which shall be requested to transmit certified copies to each of the High Contracting Parties.

In faith whereof the above-mentioned Plenipotentiaries have signed the present Treaty.

Done at Locarno, the sixteenth October, nineteen hundred and twenty-five.

Gustav Stresemann  
Dr. Eduard Beneš



## PERMANENT COMMISSION OF CONCILIATION

(Appointed April 12, 1927)

*President appointed by both Parties*JONKHEER W. J. M. VAN EYSINGA, Professor at the University of Leyden.  
(Dutch.)*Members appointed by both Parties*ÖSTEN UNDEN, Professor at the University of Upsala, former Minister  
of Foreign Affairs of Sweden. (Swedish.)

One place vacant.

*Member appointed by Czechoslovakia*LOE WINTER, former Minister, Member of the National Assembly  
(Czechoslovakian.)*Member appointed by Germany*ERNST VON SIMSON, former Under Secretary of State in the Ministry for  
Foreign Affairs. (German.)

## No. 47

FRANCE-GERMANY: TREATY OF CONCILIATION,  
ARBITRATION, AND COMPULSORY ADJUDICATION

Agreed upon at Locarno October 16, 1925; signed at London December 1, 1925; ratifications deposited September 14, 1926.

Original text from Germany, *Reichsgesetzblatt*, 1926, II, No. 42;<sup>1</sup> English translation from League of Nations, *Treaty Series*, I.IV, 317-325.*(Translation)*

Les soussignés dûment autorisés,  
Chargés par leurs Gouvernements respectifs de fixer les modalités suivant lesquelles il sera, ainsi qu'il est prévu dans l'article 3 du traité conclu en date de ce jour entre l'Allemagne, la Belgique, la France, la Grande-Bretagne et l'Italie, procédé à la solution pacifique de toutes les questions qui ne pourraient être résolues à l'amiable entre l'Allemagne et la France,  
Sont convenus des dispositions suivantes:

The undersigned duly authorised,  
is,

Charged by their respective Governments to determine the methods by which, as provided in Article 3 of the Treaty concluded this day between Germany, Belgium, France, Great Britain and Italy, a peaceful solution shall be attained of all questions which cannot be settled amicably between Germany and France,

Have agreed as follows:

<sup>1</sup> See also League of Nations, *Treaty Series*, I.IV, 316.

## PARTIE I

ARTICLE 1<sup>er</sup>. Toutes contestations entre l'Allemagne et la France, de quelque nature qu'elles soient, au sujet desquelles les Parties se contesteraient réciproquement un droit, et qui n'auraient pu être réglées à l'amiable par les procédés diplomatiques ordinaires seront soumises pour jugement soit à un tribunal arbitral soit à la Cour Permanente de Justice Internationale ainsi qu'il est prévu ci-après. Il est entendu que les contestations ci-dessus visées comprennent notamment celles que mentionne l'article 13 du Pacte de la Société des Nations.

Cette disposition ne s'applique pas aux contestations nées de faits qui sont antérieurs à la présente convention et qui appartiennent au passé.

Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres conventions en vigueur entre l'Allemagne et la France seront réglées conformément aux dispositions de ces conventions.

ART. 2. Avant toute procédure arbitrale ou avant toute procédure devant la Cour Permanente de Justice Internationale, la contestation pourra être, d'un commun accord entre les Parties, soumise à fin de conciliation à une Commission Internationale Permanente, dite Commission Permanente de Conciliation, constituée conformément à la présente convention.

ART. 3. S'il s'agit d'une contestation dont l'objet, d'après la législation intérieure de l'une des Parties relève de la compétence des tribunaux nationaux de celles-ci, le différend ne sera soumis à la procédure prévue par la présente con-

## PART I

ARTICLE 1. All disputes of every kind between Germany and France with regard to which the Parties are in conflict as to their respective rights, and which it may not be possible to settle amicably by the normal methods of diplomacy, shall be submitted for decision either to an arbitral tribunal or to the Permanent Court of International Justice, as laid down hereafter. It is agreed that the disputes referred to above include in particular those mentioned in Article 13 of the Covenant of the League of Nations.

This provision does not apply to disputes arising out of events prior to the present convention and belonging to the past.

Disputes for the settlement of which a special procedure is laid down in other conventions in force between Germany and France shall be settled in conformity with the provisions of those conventions.

ART. 2. Before any resort is made to arbitral procedure or to procedure before the permanent Court of International Justice, the dispute may, by agreement between the Parties, be submitted, with a view to amicable settlement, to a permanent international commission styled the *Permanent Conciliation Commission*, constituted in accordance with the present convention.

ART. 3. In the case of a dispute the occasion of which, according to the municipal law of one of the Parties, falls within the competence of the national courts of such Party, the matter in dispute shall not be submitted to the procedure

vention qu'après jugement passé en force de chose jugée rendu, dans des délais raisonnables, par l'autorité judiciaire nationale compétente.

ART. 4. La Commission Permanente de Conciliation prévue à l'article 2 sera composée de cinq membres, qui seront désignés comme il suit, savoir: le Gouvernement allemand et le Gouvernement français nommeront chacun un commissaire choisi parmi leurs nationaux respectifs et désigneront, d'un commun accord, les trois autres commissaires parmi les ressortissants des tierces Puissances; ces trois commissaires devront être de nationalités différentes et, parmi eux, les Gouvernements allemand et français désigneront le président de la commission.

Les commissaires sont nommés pour trois ans; leur mandat est renouvelable. Ils resteront en fonctions jusqu'à leur remplacement et, dans tous les cas, jusqu'à l'achèvement de leurs travaux en cours au moment de l'expiration de leur mandat.

Il sera pourvu, dans le plus bref délai, aux vacances qui viendraient à se produire, par suite de décès, de démission ou de quelque autre empêchement, en suivant le mode fixé pour les nominations.

ART. 5. La Commission Permanente de Conciliation sera constituée dans les trois mois qui suivront l'entrée en vigueur de la présente convention.

Si la nomination des commissaires à désigner en commun n'intervenait pas dans ledit délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, le Président de la Confédération suisse sera, à défaut d'autre

laid down in the present convention until a judgment with final effect has been pronounced, within a reasonable time, by the competent national judicial authority.

ART. 4. The Permanent Conciliation Commission mentioned in Article 2 shall be composed of five members, who shall be appointed as follows, that is to say: the German Government and the French Government shall each nominate a commissioner chosen from among their respective nationals, and shall appoint, by common agreement, the three other commissioners from among the nationals of third Powers; these three commissioners must be of different nationalities, and the German and French Governments shall appoint the president of the commission from among them.

The commissioners are appointed for three years, and their mandate is renewable. Their appointment shall continue until their replacement and, in any case, until the termination of the work in hand at the moment of the expiry of their mandate.

Vacancies which may occur as a result of death, resignation or any other cause shall be filled within the shortest possible time in the manner fixed for the nominations.

ART. 5. The Permanent Conciliation Commission shall be constituted within three months from the entry into force of the present convention.

If the nomination of the commissioners to be appointed by common agreement should not have taken place within the said period, or, in the case of the filling of a vacancy, within three months from the time when the seat falls vacant, the

*entente, prié de procéder aux désignations nécessaires.*

ART. 6. La Commission Permanente de Conciliation sera saisie par voie de requête adressée au Président par les deux Parties agissant d'un commun accord ou, à défaut, par l'une ou l'autre des Parties.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la commission de procéder à toutes mesures propres à conduire à une conciliation.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à la Partie adverse.

ART. 7. Dans un délai de quinze jours à partir de la date où le Gouvernement allemand ou le Gouvernement français aurait porté une contestation devant la Commission Permanente de Conciliation, chacune des Parties pourra, pour l'examen de cette contestation, remplacer son commissaire par une personne possédant une compétence spéciale dans la matière.

La Partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie; celle-ci aura, dans ce cas, la faculté d'agir de même dans un délai de quinze jours à partir de la date où la notification lui sera parvenue.

ART. 8. La Commission Permanente de Conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes

President of the Swiss Confederation shall, in the absence of other agreement, be requested to make the necessary appointments.

ART. 6. The Permanent Conciliation Commission shall be informed by means of a request addressed to the president by the two Parties acting in agreement or, in the absence of such agreement, by one or other of the Parties.

The request, after having given a summary account of the subject of the dispute, shall contain the invitation to the commission to take all necessary measures with a view to arriving at an amicable settlement.

If the request emanates from only one of the Parties, notification thereof shall be made without delay to the other Party.

ART. 7. Within fifteen days from the date when the German Government or the French Government shall have brought a dispute before the Permanent Conciliation Commission, either Party may, for the examination of the particular dispute, replace its commissioner by a person possessing special competence in the matter.

The Party making use of this right shall immediately inform the other Party; the latter shall in that case be entitled to take similar action within fifteen days from the date when the notification reaches it.

ART. 8. The task of the Permanent Conciliation Commission shall be to elucidate questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the Parties to an agreement. It may, after the case has been examined, inform the

de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

A la fin de ses travaux, la commission dressera un procès-verbal constatant, suivant le cas, soit que les Parties se sont arrangées et, s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la commission devront, à moins que les Parties en conviennent différemment, être terminés dans le délai de six mois à compter du jour où la commission aura été saisie du litige.

ART. 9. A moins de stipulation spéciale contraire, la Commission Permanente de Conciliation réglera elle-même sa procédure qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du Titre III (Commissions internationales d'enquête) de la Convention de La Haye du 18 octobre 1907 pour le Règlement pacifique des Conflits internationaux.

ART. 10. La Commission Permanente de Conciliation se réunira, sauf accord contraire entre les Parties au lieu désigné par son président.

ART. 11. Les travaux de la Commission Permanente de Conciliation ne sont publics qu'en vertu d'une décision prise par la commission avec l'assentiment des Parties.

ART. 12. Les Parties seront représentées auprès de la Commission Permanente de Conciliation par des agents ayant mission de servir d'intermédiaires entre elles

Parties of the terms of settlement which seem suitable to it, and lay down a period within which they are to make their decision.

At the close of its labours the commission shall draw up a report stating, as the case may be, either that the Parties have come to an agreement and, if need arises, the terms of the agreement, or that it has been impossible to effect a settlement.

The labours of the commission must, unless the Parties otherwise agree, be terminated within six months from the day on which the commission shall have been notified of the dispute.

ART. 9. Failing any special provision to the contrary, the Permanent Conciliation Commission shall lay down its own procedure, which in any case must provide for both Parties being heard. In regard to enquiries the commission, unless it decides unanimously to the contrary, shall act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of the Hague Convention of the 18th October, 1907, for the Pacific Settlement of International Disputes.

ART. 10. The Permanent Conciliation Commission shall meet, in the absence of agreement by the Parties to the contrary, at a place selected by its president.

ART. 11. The labours of the Permanent Conciliation Commission are not public, except when a decision to that effect has been taken by the commission with the consent of the Parties.

ART. 12. The Parties shall be represented before the Permanent Conciliation Commission by agents, whose duty it shall be to act as intermediaries between them and the

et la commission: elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraît utile.

La commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement.

ART. 13. Sauf disposition contraire de la présente Convention, les décisions de la Commission Permanente de Conciliation seront prises à la majorité des voix.

ART. 14. Les Gouvernements allemand et français s'engagent à faciliter les travaux de la Commission Permanente de Conciliation et, en particulier, à lui fournir dans la plus large mesure possible tous documents et informations utiles, ainsi qu'à user des moyens dont ils disposent pour leur permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

ART. 15. Pendant la durée des travaux de la Commission Permanente de Conciliation, chacun des commissaires recevra une indemnité dont le montant sera arrêté, d'un commun accord, entre les Gouvernements allemand et français qui en supporteront chacun une part égale.

ART. 16. A défaut de conciliation devant la Commission Permanente de Conciliation, la contestation sera soumise par voie de compromis soit à la Cour Permanente de Justice Internationale dans les conditions et suivant la

commission; they may, moreover, be assisted by counsel and experts appointed by them for that purpose, and request that all persons whose evidence appears to them useful should be heard.

The commission, on its side, shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties, as well as from all persons it may think useful to summon with the consent of their Government.

ART. 13. Unless otherwise provided in the present convention, the decisions of the Permanent Conciliation Commission shall be taken by a majority.

ART. 14. The German and French Governments undertake to facilitate the labours of the Permanent Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to allow it to proceed in their territory and in accordance with their law to the summoning and hearing of witnesses or experts, and to visit the localities in question.

ART. 15. During the labours of the Permanent Conciliation Commission each commissioner shall receive salary, the amount of which shall be fixed by agreement between the German and French Governments, each of which shall contribute an equal share.

ART. 16. In the event of no amicable agreement being reached before the Permanent Conciliation Commission the dispute shall be submitted by means of a special agreement either to the Permanent Court of International Justice un-

procédure prévues par son statut, soit à un tribunal arbitral dans les conditions et suivant la procédure prévues par la Convention de La Haye du 18 octobre 1907 pour le Règlement pacifique des Conflits internationaux.

A défaut d'accord entre les Parties sur le compromis et après un préavis d'un mois, l'une ou l'autre d'entre elles aura la faculté de porter directement par voie de requête la contestation devant la Cour Permanente de Justice Internationale.

## PARTIE II

ART. 17. Toutes questions sur lesquelles le Gouvernement allemand et le Gouvernement français seraient divisés sans pouvoir les résoudre à l'amiable par les procédés diplomatiques ordinaires, dont la solution ne pourrait être recherchée par un jugement ainsi qu'il est prévu par l'article 1<sup>er</sup> de la présente convention et pour lesquelles une procédure de règlement ne serait pas déjà prévue par d'autres conventions en vigueur entre les Parties, seront soumises à la Commission Permanente de Conciliation qui sera chargée de proposer aux parties une solution acceptable et, dans tous les cas, de présenter un rapport.

La procédure prévue par les articles 6 à 15 de la présente convention sera appliquée.

ART. 18. Si, dans le mois qui suivra la clôture des travaux de la Commission Permanente de Conciliation, les deux Parties ne se sont pas entendues, la question sera, à la requête de l'une ou de l'autre Partie, portée devant le Conseil de la Société des Nations, qui statuera conformément à l'article 15 du Pacte de la Société.

der the conditions and according to the procedure laid down by its statute or to an arbitral tribunal under the conditions and according to the procedure laid down by The Hague Convention of the 18th October, 1907, for the Pacific Settlement of International Disputes.

If the Parties cannot agree on the terms of the special agreement after a month's notice one or other of them may bring the dispute before the Permanent Court of International Justice by means of an application.

## PART II

ART. 17. All questions on which the German and French Governments shall differ without being able to reach an amicable solution by means of the normal methods of diplomacy the settlement of which cannot be attained by means of a judicial decision as provided in Article 1 of the present convention, and for the settlement of which no procedure has been laid down by other conventions in force between the Parties, shall be submitted to the Permanent Conciliation Commission, whose duty it shall be to propose to the Parties an acceptable solution and in any case to present a report.

The procedure laid down in Articles 6-15 of the present convention shall be applicable.

ART. 18. If the two Parties have not reached an agreement within a month from the termination of the labours of the Permanent Conciliation Commission the question shall, at the request of either party, be brought before the Council of the League of Nations, which shall deal with it in accordance with Article 15 of the Covenant of the League.

## DISPOSITIONS GÉNÉRALES

ART. 19. Dans tous les cas et notamment si la question, au sujet de laquelle les Parties sont divisées, résulte d'actes déjà effectués ou sur le point de l'être, la Commission de Conciliation ou, si celle-ci ne s'en trouvait pas saisie, le tribunal arbitral ou la Cour Permanente de Justice Internationale statuant conformément à l'article 41 de son statut, indiqueront dans le plus bref délai possible, quelles mesures provisoires doivent être prises. Il appartiendra au Conseil de la Société des Nations, s'il est saisi de la question, de pourvoir de même à des mesures provisoires appropriées. Les Gouvernements allemand et français s'engagent respectivement à s'y conformer, à s'abstenir de toute mesure susceptible d'avoir une répercussion préjudiciable à l'exécution de la décision ou aux arrangements proposés par la Commission de Conciliation, ou par le Conseil de la Société des Nations, et en général, à ne procéder à aucun acte de quelque nature qu'il soit, susceptible d'aggraver ou d'étendre le différend.

ART. 20. La présente convention reste applicable entre l'Allemagne et la France encore que d'autres Puissances aient également un intérêt dans le différend.

ART. 21. La présente convention sera ratifiée. Les ratifications en seront déposées à Genève à la Société des Nations en même temps que les ratifications du traité conclu en date de ce jour entre l'Allemagne, la Belgique, la France, la Grande-Bretagne et l'Italie.

Elle entrera en vigueur dans les mêmes conditions que ledit traité.

## GENERAL PROVISIONS

ART. 19. In any case, and particularly if the question on which the Parties differ arises out of acts already committed or on the point of commission, the Conciliation Commission or, if the latter has not been notified thereof, the arbitral tribunal or the Permanent Court of International Justice, acting in accordance with Article 41 of its statute, shall lay down within the shortest possible time the provisional measures to be adopted. It shall similarly be the duty of the Council of the League of Nations, if the question is brought before it, to ensure that suitable provisional measures are taken. The German and French Governments undertake respectively to accept such measures, to abstain from all measures likely to have a repercussion prejudicial to the execution of the decision or to the arrangements proposed by the Conciliation Commission or by the Council of the League of Nations, and, in general, to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

ART. 20. The present Convention continues applicable as between Germany and France, even when other Powers are also interested in the dispute.

ART. 21. The present Convention shall be ratified. Ratifications shall be deposited at Geneva with the League of Nations at the same time as the ratifications of the Treaty concluded this day between Germany, Belgium, France, Great Britain and Italy.

It shall enter into and remain in force under the same conditions as the said Treaty.



La présente convention, faite en un seul exemplaire, sera déposée aux archives de la Société des Nations, dont le Secrétaire Général sera prié de remettre à chacun des deux Gouvernements contractants des copies certifiées conformes.

Fait à Locarno, le 16 octobre 1925.

Gustav Stresemann  
Ari. Briand

The present Convention, done in a single copy, shall be deposited in the archives of the League of Nations, the Secretary-General of which shall be requested to transmit certified copies to each of the two contracting Governments.

Done at Locarno, the sixteenth October, nineteen hundred and twenty-five.

Gustav Stresemann  
Aristide Briand

#### FRANCE-GERMANY: COMMISSION OF CONCILIATION

(Appointed December 14, 1926)

##### *President appointed by both Parties*

F. V. N. BEICHMANN, President of Court of Appeal at Trondhjem, Deputy Judge of the Permanent Court of International Justice. (*Norwegian.*)

##### *Members appointed by both Parties*

PAUL LOGOZ, Professor at the University of Geneva, President of the German-Yugoslav Mixed Arbitral Tribunal. (*Swiss.*)

JONKHEER W. J. M. VAN EYSINGA, Professor at the University of Leyden. (*Dutch.*)

##### *Member appointed by France*

JACQUES SEYDOUX, former Director in the Ministry of Foreign Affairs. (*French.*)

##### *Member appointed by Germany*

ERNST VON SIMSON, former Under-Secretary of State for Foreign Affairs. (*German.*)

### No. 48

#### GERMANY-POLAND: TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Agreed upon at Locarno October 16, 1925; signed at London December 1, 1925; ratifications deposited September 14, 1926.

Original text from Germany, *Reichsgesetzblatt*, 1926, II, No. 42;<sup>1</sup> English translation from League of Nations, *Treaty Series*, LIV, 329-339.

##### *(Translation)*

Le Président de l'Empire allemand et le Président de la République de Pologne,

Egalement résolus à maintenir la paix entre l'Allemagne et la

The President of the German Empire and the President of the Polish Republic;

Equally resolved to maintain peace between Germany and Po-

<sup>1</sup> See also League of Nations, *Treaty Series*, LIV, 328.

Pologne en assurant le règlement pacifique des différends qui viendraient à surgir entre les deux pays,

Constatant que le respect des droits établis par les traités ou résultant du droit des gens est obligatoire pour les tribunaux internationaux,

D'accord pour reconnaître que les droits d'un Etat ne sauraient être modifiés que de son consentement,

Et considérant que la sincère observation des procédés de règlement pacifique des différends internationaux permet de résoudre sans recourir à la force les questions qui viendraient à diviser les Etats,

Ont décidé de réaliser dans un traité leurs intentions communes à cet égard et ont nommé pour leurs Plénipotentiaires, savoir:

Le Président de l'Empire allemand:

Dr. Gustav Stresemann, Ministre des Affaires Etrangères;

Le Président de la République de Pologne:

Monsieur Alexandre Skrzynski, Président du Conseil des Ministres, Ministre des Affaires Etrangères;

Lesquels, après avoir échangé leurs pleins pouvoirs reconnus en bonne et due forme, sont convenus des dispositions suivantes:

#### PARTIE I

ARTICLE 1<sup>er</sup>. Toutes contestations entre l'Allemagne et la Pologne, de quelque nature qu'elles soient, au sujet desquelles les Parties se contesteraient réciproquement un droit, et qui n'auraient pu être réglées à l'amiable par les procédés diplomatiques ordinaires, seront soumises pour jugement soit à un tribunal arbitral soit à la Cour Permanente de Justice Internationale ainsi qu'il est prévu ci-après. Il est

land by assuring the peaceful settlement of differences which might arise between the two countries;

Declaring that respect for the rights established by treaty or resulting from the law of nations is obligatory for international tribunals;

Agreeing to recognise that the rights of a State cannot be modified save with its consent;

And considering that sincere observance of the methods of peaceful settlement of international disputes permits of resolving, without recourse to force, questions which may become the cause of division between States;

Have decided to embody in a treaty their common intentions in this respect, and have named as their Plenipotentiaries the following:

The President of the German Empire:

Dr. Gustav Stresemann, Minister for Foreign Affairs;

The President of the Polish Republic:

M. Alexandre Skrzynski, Prime Minister for Foreign Affairs;

Who, having exchanged their full powers, found in good and due form, are agreed upon the following Articles:

#### PART I

ARTICLE 1. All disputes of every kind between Germany and Poland with regard to which the Parties are in conflict as to their respective rights, and which it may not be possible to settle amicably by the normal methods of diplomacy, shall be submitted for decision either to an arbitral tribunal or to the Permanent Court of International Justice, as laid down hereafter. It is agreed that the disputes referred

entendu que les contestations ci-dessus visées comprennent notamment celles que mentionne l'article 13 du Pacte de la Société des Nations.

Cette disposition ne s'applique pas aux contestations nées de faits qui sont antérieurs au présent traité et qui appartiennent au passé.

Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres conventions en vigueur entre les Hautes Parties contractantes seront réglées conformément aux dispositions de ces conventions.

ART. 2. Avant toute procédure arbitrale ou avant toute procédure devant la Cour Permanente de Justice Internationale, la contestation pourra être, d'un commun accord entre les Parties, soumise à fin de conciliation à une commission internationale permanente, dite "Commission Permanente de Conciliation," constituée conformément au présent traité.

ART. 3. S'il s'agit d'une contestation dont l'objet, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux de celles-ci, le différend ne sera soumis à la procédure prévue par le présent traité qu'après jugement passé en force de chose jugée rendu, dans les délais raisonnables, par l'autorité judiciaire nationale compétente.

ART. 4. La Commission Permanente de Conciliation prévue à l'article 2 sera composée de cinq membres, qui seront désignés comme il suit, savoir: les Hautes Parties contractantes nommeront chacune un commissaire choisi parmi leurs nationaux respectifs et désigneront, d'un commun accord,

to above include in particular those mentioned in Article 13 of the Covenant of the League of Nations.

This provision does not apply to disputes arising out of events prior to the present treaty and belonging to the past.

Disputes for the settlement of which a special procedure is laid down in other conventions in force between the High Contracting Parties shall be settled in conformity with the provisions of those conventions.

ART. 2. Before any resort is made to arbitral procedure or to procedure before the Permanent Court of International Justice, the dispute may, by agreement between the Parties, be submitted, with a view to amicable settlement, to a permanent international commission, styled the *Permanent Conciliation Commission*, constituted in accordance with the present Treaty.

ART. 3. In the case of a dispute the occasion of which, according to the municipal law of one of the Parties, falls within the competence of the national courts of such Party, the matter in dispute shall not be submitted to the procedure laid down in the present treaty until a judgment with final effect has been pronounced, within a reasonable time, by the competent national judicial authority.

ART. 4. The Permanent Conciliation mentioned in Article 2 shall be composed of five members, who shall be appointed as follows, that is to say: the High Contracting Parties shall each nominate a commissioner chosen from among their respective nationals, and shall appoint, by common agreement, the

les trois autres commissaires, parmi les ressortissants de tierces Puissances; ces trois commissaires devront être de nationalités différentes et, parmi eux, les Hautes Parties contractantes désigneront le président de la commission.

Les commissaires sont nommés pour trois ans; leur mandat est renouvelable. Ils resteront en fonctions jusqu'à leur remplacement; et, dans tous les cas, jusqu'à l'achèvement de leurs travaux en cours au moment de l'expiration de leur mandat.

Il sera pourvu, dans le plus bref délai, aux vacances qui viendraient à se produire, par suite de décès, de démission ou de quelque autre empêchement, en suivant le mode fixé pour les nominations.

ART. 5. La Commission Permanente de Conciliation sera constituée dans les trois mois qui suivront l'entrée en vigueur du présent traité.

Si la nomination des commissaires à désigner en commun n'intervenait pas dans ledit délai ou, en cas de remplacement dans les trois mois à compter de la vacance du siège, le Président de la Confédération suisse sera, à défaut d'autre entente, prié de procéder aux désignations nécessaires.

ART. 6. La Commission Permanente de Conciliation sera saisie par voie de requête adressée au président par les deux Parties agissant d'un commun accord ou, à défaut, par l'une ou l'autre des Parties.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la commission de procéder à toutes mesures propres à conduire à une conciliation.

three other commissioners from among the nationals of third Powers; those three commissioners must be of different nationalities, and the High Contracting Parties shall appoint the president of the commission from among them.

The commissioners are appointed for three years, and their mandate is renewable. Their appointment shall continue until their replacement, and in any case until the termination of the work in hand at the moment of the expiry of their mandate.

Vacancies which may occur as a result of death, resignation or any other cause shall be filled within the shortest possible time in the manner fixed for the nominations.

ART. 5. The Permanent Conciliation Commission shall be constituted within three months from the entry into force of the present Treaty.

If the nomination of the commissioners to be appointed by common agreement should not have taken place within the said period, or, in the case of the filling of a vacancy, within three months from the time when the seat falls vacant, the President of the Swiss Confederation shall, in the absence of other agreement, be requested to make the necessary appointments.

ART. 6. The Permanent Conciliation Commission shall be informed by means of a request addressed to the president by the two Parties acting in agreement, or, in the absence of such agreement, by one or other of the Parties.

The request, after having given a summary account of the subject of the dispute, shall contain the invitation to the commission to take all necessary measures with a view to arriving at an amicable settlement.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à la Partie ad-

If the request emanates from only one of the Parties, notification thereof shall be made without delay to the other Party.

ART. 7. Dans un délai de quinze jours à partir de la date où l'une des Hautes Parties contractantes aurait porté une contestation devant la Commission Permanente de Conciliation, chacune des Parties pourra, pour l'examen de cette contestation, remplacer son commissaire par une personne possédant une compétence spéciale dans la matière.

La Partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie; celle-ci aura, dans ce cas, la faculté d'agir de même dans un délai de quinze jours à partir de la date où la notification lui sera parvenue.

ART. 8. La Commission Permanente de Conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

A la fin de ses travaux, la commission dressera un procès-verbal constatant, suivant le cas, soit que les Parties se sont arrangées et, s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la commission devront, à moins que les Parties en conviennent différemment, être terminés dans le délai de six mois à compter du jour où la commission aura été saisie du litige.

ART. 7. Within fifteen days from the date when one of the High Contracting Parties shall have brought a dispute before the Permanent Conciliation Commission, either Party may, for the examination of the particular dispute, replace its commissioner by a person possessing special competence in the matter.

The Party making use of this right shall immediately inform the other Party; the latter shall in that case be entitled to take similar action within fifteen days from the date when the notification reaches it.

ART. 8. The task of the Permanent Conciliation Commission shall be to elucidate questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of settlement which seem suitable to it, and lay down a period within which they are to make their decision.

At the close of its labours the commission shall draw up a report stating, as the case may be, either that the Parties have come to an agreement and, if need arises, the terms of the agreement, or that it has been impossible to effect a settlement.

The labours of the commission must, unless the Parties otherwise agree, be terminated within six months from the day on which the commission shall have been notified of the dispute.

ART. 9. A moins de stipulation spéciale contraire, la Commission Permanente de Conciliation réglera elle-même sa procédure qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du Titre III (Commissions internationales d'enquête) de la Convention de La Haye du 18 octobre 1907 pour le Règlement pacifique des Conflits internationaux.

ART. 10. La Commission Permanente de Conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son président.

ART. 11. Les travaux de la Commission Permanente de Conciliation ne sont publics qu'en vertu d'une décision prise par la commission avec l'assentiment des Parties.

ART. 12. Les Parties seront représentées auprès de la Commission Permanente de Conciliation par des agents ayant mission de servir d'intermédiaires entre elles et la commission; elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraît utile.

La commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement.

ART. 13. Sauf disposition contraire du présent traité, les décisions de la Commission Perma-

ART. 9. Failing any special provision to the contrary, the Permanent Conciliation Commission shall lay down its own procedure, which in any case must provide for both Parties being heard. In regard to enquiries, the commission, unless it decides unanimously to the contrary, shall act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of the Hague Convention of the 18th October 1907, for the Pacific Settlement of International Disputes.

ART. 10. The Permanent Conciliation Commission shall meet, in the absence of agreement by the Parties to the contrary, at a place selected by its president.

ART. 11. The labours of the Permanent Conciliation Commission are not public except when a decision to that effect has been taken by the commission with the consent of the Parties.

ART. 12. The Parties shall be represented before the Permanent Conciliation Commission by agents, whose duty it shall be to act as intermediaries between them and the commission; they may moreover be assisted by counsel and experts appointed by them for that purpose, and request that all persons whose evidence appears to them useful should be heard.

The commission on its side shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties, as well as from all persons it may think useful to summon with the consent of their Government.

ART. 13. Unless otherwise provided in the present treaty the decisions of the Permanent Concili-

nente de Conciliation seront prises à la majorité des voix.

ART. 14. Les Hautes Parties contractantes s'engagent à faciliter les travaux de la Commission Permanente de Conciliation et, en particulier, à lui fournir dans la plus large mesure possible tous documents et informations utiles, ainsi qu'à user des moyens dont elles disposent pour leur permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

ART. 15. Pendant la durée des travaux de la Commission Permanente de Conciliation, chacun des commissaires recevra une indemnité dont le montant sera arrêté, d'un commun accord, entre les Hautes Parties contractantes qui en supporteront chacune une part égale.

ART. 16. A défaut de conciliation devant la Commission Permanente de Conciliation, la contestation sera soumise par voie de compromis soit à la Cour Permanente de Justice Internationale dans les conditions et suivant la procédure prévues par son statut, soit à un tribunal arbitral dans les conditions et suivant la procédure prévues par la Convention de La Haye du 18 octobre 1907 pour le Règlement pacifique des Conflits internationaux.

A défaut d'accord entre les Parties sur le compromis et après un préavis d'un mois, l'une ou l'autre d'entre elles aura la faculté de porter directement par voie de requête la contestation devant la Cour Permanente de Justice Internationale.

ation Commission shall be taken by a majority.

ART. 14. The High Contracting Parties undertake to facilitate the labours of the Permanent Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to allow it to proceed in their territory and in accordance with their law to the summoning and hearing of witnesses or experts, and to visit the localities in question.

ART. 15. During the labours of the Permanent Conciliation Commission each commissioner shall receive salary, the amount of which shall be fixed by agreement between the High Contracting Parties, each of which shall contribute an equal share.

ART. 16. In the event of no amicable agreement being reached before the Permanent Conciliation Commission the dispute shall be submitted by means of a special agreement either to the Permanent Court of International Justice under the conditions and according to the procedure laid down by its statute or to an arbitral tribunal under the conditions and according to the procedure laid down by the Hague Convention of the 18th October 1907, for the Pacific Settlement of International Disputes.

If the Parties cannot agree on the terms of the special agreement after a month's notice one or other of them may bring the dispute before the Permanent Court of International Justice by means of an application.

## PARTIE II

ART. 17. Toutes questions sur lesquelles le Gouvernement allemand et le Gouvernement polonais seraient divisés sans pouvoir les résoudre à l'amiable par les procédés diplomatique ordinaires, dont la solution ne pourrait être recherchée par un jugement ainsi qu'il est prévu par l'article 1<sup>er</sup> du présent traité et pour lesquelles une procédure de règlement ne serait pas déjà prévue par d'autres conventions en vigueur entre les Parties, seront soumises à la Commission Permanente de Conciliation qui sera chargée de proposer aux parties une solution acceptable et, dans tous les cas, de présenter un rapport.

La procédure prévue par les articles 6 à 15 du présent traité sera appliquée.

ART. 18. Si, dans le mois qui suivra la clôture des travaux de la Commission Permanente de Conciliation, les deux Parties ne se sont pas entendues, la question sera, à la requête de l'une ou de l'autre Partie, portée devant le Conseil de la Société des Nations, qui statuera conformément à l'article 15 du Pacte de la Société.

## DISPOSITIONS GÉNÉRALES

ART. 19. Dans tous les cas et notamment si la question au sujet de laquelle les Parties sont divisées, résulte d'actes déjà effectués ou sur le point de l'être, la Commission de Conciliation ou, si celle-ci ne s'en trouvait pas saisie, le tribunal arbitral ou la Cour Permanente de Justice Internationale statuant conformément à l'article 41 de son statut, indiqueront dans le plus bref délai possible, quelles mesures provisoires doivent être prises. Il appartiendra au Conseil de la So-

## PART II

ART. 17. All questions on which the German and Polish Governments shall differ without being able to reach an amicable solution by means of the normal methods of diplomacy, the settlement of which cannot be attained by means of a judicial decision as provided in Article 1 of the present Treaty, and for the settlement of which no procedure has been laid down by other conventions in force between the Parties, shall be submitted to the Permanent Conciliation Commission, whose duty it shall be to propose to the Parties an acceptable solution and in any case to present a report.

The procedure laid down in Articles 6-15 of the present Treaty shall be applicable.

ART. 18. If the two parties have not reached an agreement within a month from the termination of the labours of the Permanent Conciliation Commission the question shall, at the request of either Party, be brought before the Council of the League of Nations, which shall deal with it in accordance with Article 15 of the Covenant of the League.

## GENERAL PROVISIONS

ART. 19. In any case, and particularly if the question on which the Parties differ arises out of acts already committed or on the point of commission, the Conciliation Commission or, if the latter has not been notified thereof, the arbitral tribunal or the Permanent Court of International Justice, acting in accordance with Article 41 of its statute, shall lay down within the shortest possible time the provisional measures to be adopted. It shall similarly be the duty of the



ciété des Nations, s'il est saisi de la question, de pourvoir de même à des mesures provisoires appropriés. Chacune des Hautes Parties contractantes s'engage à s'y conformer, à s'abstenir de toute mesure susceptible d'avoir une répercussion préjudiciable à l'exécution de la décision ou aux arrangements proposés par la Commission de Conciliation ou par le Conseil de la Société des Nations, et en général, à ne procéder à aucun acte, de quelque nature qu'il soit, susceptible d'aggraver ou d'étendre le différend.

ART. 20. Le présent traité reste applicable entre les Hautes Parties contractantes encore que d'autres Puissances aient également un intérêt dans le différend.

ART. 21. Le présent traité conforme au Pacte de la Société des Nations ne portera aucune atteinte aux droits et obligations des Hautes Parties contractantes en tant que membres de la Société des Nations et ne sera pas interprété comme restreignant la mission de celle-ci de prendre les mesures propres à sauvegarder efficacement la paix du monde.

ART. 22. Le présent traité sera ratifié. Les ratifications en seront déposées à Genève à la Société des Nations en même temps que les ratifications du traité conclu en date de ce jour entre l'Allemagne, la Belgique, la France, la Grande-Bretagne et l'Italie.

Il entrera et demeurera en vigueur dans les mêmes conditions que ledit traité.

Le présent traité, fait en un seul exemplaire, sera déposé aux archives de la Société des Nations, dont le Secrétaire Général sera prié de remettre à chacune des Hautes

Council of the League of Nations, if the question is brought before it, to ensure that suitable provisional measures are taken. The High Contracting Parties undertake respectively to accept such measures, to abstain from all measures likely to have a repercussion prejudicial to the execution of the decision or to the arrangements proposed by the Conciliation Commission or by the Council of the League of Nations, and, in general, to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

ART. 20. The present Treaty continues applicable as between the High Contracting Parties even when other Powers are also interested in the dispute.

ART. 21. The present Treaty, which is in conformity with the Covenant of the League of Nations, shall not in any way affect the rights and obligations of the High Contracting Parties as Members of the League of Nations and shall not be interpreted as restricting the duty of the League to take whatever action may be deemed wise and effectual to safeguard the peace of the world.

ART. 22. The present Treaty shall be ratified. Ratifications shall be deposited at Geneva with the League of Nations at the same time as the ratifications of the treaty concluded this day between Germany, Belgium, France, Great Britain and Italy.

It shall enter into and remain in force under the same conditions as the said treaty.

The present Treaty, done in a single copy, shall be deposited in the archives of the League of Nations, the Secretary-General of which shall be requested to trans-

Parties contractantes des copies certifiées conformes.

En foi de quoi les Plénipotentiaires susnommés ont signé le présent traité.

Fait à Locarno, le seize octobre, mil neuf cent vingt-cinq.

Gustav Stresemann  
Alexandre Skrzynski

mit certified copies to each of the High Contracting Parties.

In faith whereof the above-mentioned Plenipotentiaries have signed the present Treaty.

Done at Locarno, the sixteenth October, nineteen hundred and twenty-five.

Gustav Stresemann  
Alexandre Skrzynski

#### PERMANENT COMMISSION OF CONCILIATION

(Appointed April 12, 1927)

##### *President appointed by both Parties*

JONKHEER JOHN LOUDON, Dutch Minister to France, former Minister for Foreign Affairs of the Netherlands. (*Dutch.*)

##### *Members appointed by both Parties*

ERICK SJÖBORG, Secretary-General to the Ministry for Foreign Affairs of Sweden. (*Swedish.*)

One place vacant.

##### *Member appointed by Germany*

ERNST VON SIMSON, former Under-Secretary of State in the Ministry for Foreign Affairs. (*German.*)

##### *Member appointed by Poland*

JOSEPH WIELOWIEJSKI, former Polish Minister to Roumania. (*Polish.*)

### No. 49

#### POLAND-SWEDEN: TREATY OF CONCILIATION AND ARBITRATION

Signed at Stockholm November 3, 1925; ratifications exchanged March 28, 1927.

Original text from Poland, *Dziennik Ustaw*, 1927, No. 37;<sup>1</sup> English translation from League of Nations, *Treaty Series*, LXII, 265-275.

##### *(Translation)*

Le Président de la République de Pologne, et Sa Majesté le Roi de Suède,

animés du désir de développer les relations amicales qui unissent les deux pays,

décidés à donner, dans leurs rap-

The President of the Polish Republic and His Majesty the King of Sweden, being desirous of further improving the friendly relations which unite the two countries, and being resolved in their mutual relations, to give wide application to

<sup>1</sup> See also League of Nations, *Treaty Series*, LXII, 264.

ports réciproques, une large application aux principes dont s'inspire la Société des Nations,

ont résolu de conclure un *Traité de conciliation et d'arbitrage* et ont nommé à cet effet leurs Plénipotentiaires, savoir:

Le Président de la République de Pologne:

Monsieur Alfred Wysocki, Envoyé Extraordinaire et Ministre Plénipotentiaire de la République à Stockholm et

Monsieur Julian Makowski, Docteur en Droit, Chef de Division au Ministère des Affaires Étrangères,

Sa Majesté le Roi de Suède:

Monsieur Bo Östen Undén, Son Ministre des Affaires Étrangères, lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Les Parties Contractantes s'engagent à soumettre à une procédure de conciliation tous les différends survenus entre Elles qui n'auraient pu être réglés par les procédés diplomatiques ordinaires dans un délai raisonnable et pour la solution desquels aucune procédure spéciale n'aurait été prévue par d'autres accords entre les Parties.

Toutefois les Parties Contractantes pourront convenir qu'un différend soit soumis directement à la Cour permanente de Justice internationale ou à une procédure d'arbitrage.

ART. 2. Au cas, où la procédure de conciliation prévue par le présent *Traité* n'aboutirait pas, le différend sera réglé de la manière suivante.

S'il s'agit d'une question au sujet de laquelle les Parties se contesterait réciproquement un droit,

the principles by which the League of Nations is inspired, have decided to conclude a *Treaty of Conciliation and Arbitration*, and for this purpose have appointed as their Plénipotentaries:

The President of the Polish Republic:

M. Alfred Wysocki, Envoy Extraordinary and Minister Plenipotentiary of Poland at Stockholm; and

M. Julian Makowski, Doctor of Laws, Head of Section at the Ministry of Foreign Affairs;

His Majesty the King of Sweden:

M. Bo Östen Undén, Minister for Foreign Affairs,

Who having communicated their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1. The Contracting Parties undertake to submit to a procedure of conciliation any disputes arising between them which it may not be possible to settle by the normal methods of diplomacy within a reasonable period, and for the solution of which no special procedure has been provided by any other agreement between the Parties.

The Contracting Parties may agree, however, that a dispute should be submitted direct to the Permanent Court of International Justice or to a procedure of arbitration.

ART. 2. Should the procedure of conciliation provided by the present *Treaty* not lead to a settlement, the dispute shall be adjusted as follows:

In the case of a question with regard to which the Parties are in conflict as to their respective rights, the matter shall be submitted to

elle sera portée devant la Cour permanente de Justice internationale ou, si l'une des Parties le demande, soumise à la procédure d'arbitrage prévue ci-après. Il est entendu que les différends susceptibles d'être soumis à la Cour permanente de Justice internationale comprennent notamment ceux mentionnés à l'article 13, alinéa 2, du pacte de la Société des Nations.

Toute question qui n'aurait pu être réglée par voie de conciliation et qui n'aurait pas été portée devant la Cour permanente de Justice internationale sera soumise à l'arbitrage, conformément aux dispositions de ce Traité.

Les dispositions visées au présent article ne s'appliquent pas aux questions que le droit international laisse à la compétence exclusive de l'une ou de l'autre des Parties.

ART. 3. S'il s'agit d'un différend qui, selon la législation interne de l'une des Parties, relève de la compétence des tribunaux, y compris les tribunaux administratifs, cette Partie pourra s'opposer à ce qu'il soit soumis à une procédure de conciliation ou d'arbitrage, avant qu'un jugement définitif ait été rendu par l'autorité judiciaire compétente.

La demande de conciliation devra, dans ce cas, être formée une année au plus tard à compter du jugement définitif.

ART. 4. La Commission permanente de conciliation se compose de cinq membres.

Les Parties Contractantes nomment chacune un membre à leur gré et désignent les trois autres d'un commun accord. Ces trois membres ne doivent ni être des ressortissants des États Contractants, ni avoir leur domicile sur leur territoire ou se trouver à leur service.

the Permanent Court of International Justice, or if one of the Parties so requires, it shall be submitted to the arbitration procedure hereinafter provided for. It is understood that disputes capable of submission to the Permanent Court of International Justice comprise in particular those mentioned in Article 13, paragraph 2, of the Covenant of the League of Nations.

Any question which it has not been possible to settle by conciliation, and which has not been brought before the Permanent Court of International Justice, shall be submitted to arbitration in accordance with the provisions of the present Treaty.

The provisions of the present Article shall not apply to questions which are left by international law to the exclusive competence of one or other of the Parties.

ART. 3. In the case of a dispute which, under the municipal law of one of the Parties, falls within the competence of the Courts, including the administrative tribunals, that Party may require that the dispute shall not be submitted to the procedure of conciliation or arbitration, until final judgment has been pronounced by the competent judicial authority.

In this case, the request for conciliation must be made within a year at most from the date of such judgment.

ART. 4. The Permanent Conciliation Commission shall be composed of five members.

Each Contracting Party shall nominate one member of its own choosing, the other three being appointed jointly. The latter may not be nationals of the Contracting States, nor be domiciled in their territory or employed in their service.

*Le Président de la Commission est nommé d'un commun accord, parmi les membres désignés en commun.*

*La Commission sera constituée dans les six mois qui suivront l'échange dans les six mois qui suivront l'échange des ratifications du présent Traité.*

*Si la nomination des membres à désigner en commun ou du Président n'intervient pas dans les six mois à compter de l'échange des ratifications ou, en cas de retraite ou de décès, dans les deux mois à compter de la vacance du siège, le Président de la Confédération Suisse, à la demande de l'une des Parties, sera, à défaut d'autre entente, prié de procéder aux désignations nécessaires.*

ART. 5. Les membres de la Commission sont nommés pour trois ans. Sauf accord contraire entre les Parties Contractantes, ils ne pourront être révoqués pendant la durée de leur mandat. En cas de décès, d'empêchement ou de retraite d'un membre, il devra être pourvu à son remplacement pour le reste de la durée de son mandat.

Si le mandat d'un membre désigné d'un commun accord expire sans qu'aucune des Parties s'oppose à son renouvellement, il est censé renouvelé pour une nouvelle période de trois ans. De même, si, à l'expiration du mandat d'un membre désigné par l'une des Parties, il n'a pas été pourvu à son remplacement, son mandat sera renouvelé pour trois ans.

Un membre, dont le mandat expire pendant la durée d'une procédure en cours, continue à prendre part à l'examen du différend jusqu'à clôture de la procédure.

*The President of the Commission shall be appointed by agreement from among the jointly selected members.*

*The Commission shall be set up within six months after the ratifications of the present Treaty have been exchanged.*

*If the appointment of the members to be nominated jointly or of the President is not made within six months from the date of the exchange of ratifications, or in the event of resignation or death, within two months after the vacancy occurs, the President of the Swiss Confederation shall, at the request of either Party, be asked in the absence of any other agreement to make the necessary appointments.*

ART. 5. The members of the Commission shall be appointed for three years. Their appointment shall not be terminated during the period of their mandate unless the Contracting Parties decide otherwise. Should a member die, or resign, or be unable for any other reason to perform his duty, arrangements shall be made to replace him for the remainder of his mandate.

If the mandate of a member selected by joint agreement shall expire and if neither Party is opposed to its renewal, it shall be deemed to be renewed for a further period of three years. Similarly, if on the expiry of the mandate of a member appointed by one of the Parties, no arrangements have been made to replace him, his mandate shall be renewed for three years.

A member whose mandate expires while proceedings are in progress shall continue to take part in the examination of the dispute until the proceedings are terminated.

ART. 6. Dans les quinze jours qui suivent la notification d'une demande de conciliation à la Commission permanente, chacune des Parties pourra remplacer le membre librement désigné par Elle par une personne possédant une compétence spéciale dans la matière qui fait l'objet du différend.

La Partie qui entendrait user de ce droit en avertira immédiatement la Partie adverse; dans ce cas, celle-ci pourra user du même droit dans un délai de quinze jours à compter de la notification qu'elle a reçue.

ART. 7. La Commission permanente de conciliation aura pour tâche de faciliter la solution du différend en éclaircissant, par un examen impartial et consciencieux, les questions de fait et en formulant des propositions en vue du règlement du litige, conformément aux dispositions de l'article 12 du présent Traité.

La Commission sera saisie sur requête adressée à son Président par l'une des Parties Contractantes. Notification de cette requête sera faite, en même temps, à la Partie adverse par la Partie qui demandera l'ouverture de la procédure de conciliation.

ART. 8. La Commission permanente de conciliation se réunira, sauf accord contraire, au lieu désigné par son Président.

ART. 9. La procédure devant la Commission permanente de conciliation sera contradictoire.

La Commission règlera elle-même la procédure en tenant compte, sauf décision contraire prise à l'unanimité, des dispositions contenues au

ART. 6. Within fifteen days from the date of the notification of a request for conciliation to the Permanent Commission, either Party may replace the member of its own choosing by a person possessing special competence in the matter which forms the subject of the dispute.

The Party which intends to make use of this right shall immediately notify the opposing Party. The latter shall in that case be entitled to take similar action within fifteen days from the date when the notification reaches it.

ART. 7. The task of the Permanent Conciliation Commission shall be to facilitate, by an impartial and conscientious examination, the settlement of the dispute by elucidating the facts and formulating proposals with a view to settling the case in accordance with the provisions of Article 12 of the present Treaty.

The Commission shall be informed by means of a request addressed to its President by one of the Contracting Parties. Notification of this request shall be made at the same time to the opposing Party by the Party which requests the opening of a procedure of conciliation.

ART. 8. The Permanent Conciliation Commission shall meet, in the absence of agreement to the contrary, at a place selected by its President.

ART. 9. The procedure before the Permanent Conciliation Commission must provide for both Parties being heard.

The Commission shall lay down its own procedure, regard being had, except in the case of a unani-

titre III de la Convention de la Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

Les délibérations de la Commission auront lieu à huis clos, à moins que la Commission, d'accord avec les Parties, n'en décide autrement.

ART. 10. Sauf dispositions contraires du présent Traité, les décisions de la Commission permanente de conciliation seront prises à la majorité des voix. Chaque membre, y compris le Président, disposera d'une voix.

Si tous les membres ne sont pas présents, la voix du Président sera décisive en cas de partage. La Commission ne pourra prendre des décisions portant sur le fond du différend que si tous les membres sont présents.

ART. 11. Les Parties Contractantes fourniront à la Commission permanente de conciliation toutes les informations utiles et lui faciliteront, à tous égards et dans toute la mesure du possible, l'accomplissement de sa tâche.

ART. 12. La Commission permanente de conciliation présentera son rapport dans les six mois à compter du jour, où elle aura été saisie du différend, à moins que les Parties Contractantes ne décident, d'un commun accord, de proroger ou d'abréger ce délai.

Le rapport comportera, s'il y a lieu, un projet de règlement du différend.

L'avis motivé des membres restés en minorité sera consigné dans le rapport.

Un exemplaire du rapport, signé par le Président, sera remis à chacune des Parties.

mous decision to the contrary, to the provisions of Chapter III of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

The deliberations of the Commission shall be held in private, unless the Commission, in agreement with the Parties, decides otherwise.

ART. 10. Unless otherwise provided in the present Treaty, the decisions of the Permanent Conciliation Commission shall be taken by a majority. Each member, including the President, shall have one vote.

If all the members are not present, the President shall, in the case of an equality of votes, have a casting vote. The Commission may not take decisions on the substance of the dispute unless all the members are present.

ART. 11. The Contracting Parties shall supply the Permanent Conciliation Commission with all relevant information, and shall assist it in every respect, and as far as possible in the accomplishment of its task.

ART. 12. The Permanent Conciliation Commission shall make its report within six months from the day on which the dispute is submitted to it, unless the Contracting Parties agree to a curtailment or extension of this period.

The report shall if necessary contain a proposal for settling the dispute.

The report shall contain the opinion of the members who form the minority, accompanied by a statement of the reasons on which it is based.

A copy of the report, signed by the President, shall be sent to each Party.

Le rapport de la Commission n'aura, ni en ce qui concerne l'exposé des faits, ni en ce qui concerne les considérations juridiques, le caractère d'une sentence arbitrale.

ART. 13. La Commission permanente de conciliation fixera le délai dans lequel les Parties auront à se prononcer à l'égard de ses propositions. Ce délai n'excèdera pas toutefois la durée de trois mois.

ART. 14. Lorsque, en vertu des dispositions des articles premier et second du présent Traité, un différend sera soumis à l'arbitrage, le Tribunal arbitral sera établi par l'accord des Parties.

A défaut de constitution du Tribunal par l'accord des Parties, dans un délai de trois mois, à compter du jour, où l'une des Parties aura adressé à l'autre la demande d'arbitrage, il sera procédé de la manière suivante.

Chaque Partie nommera deux arbitres, dont l'un devra être pris sur la liste des membres de la Cour permanente d'Arbitrage de la Haye et choisi à l'exclusion de ses propres nationaux. Les arbitres ainsi désignés choisiront ensemble le Président du Tribunal. En cas de partage des voix, le Président de la Confédération Suisse, à la demande de l'une des Parties, sera, à défaut d'autre entente, prié de procéder à la désignation.

ART. 15. Lorsqu'il y aura lieu à un arbitrage entre Elles ou à une procédure devant la Cour permanente de Justice internationale, les Parties Contractantes s'engagent à conclure, dans un délai de trois mois à compter du jour, où l'une des Parties aura adressé à l'autre

The report of the Commission shall not be in the nature of an arbitral award, either in respect of the statement of facts or in respect of the legal considerations.

ART. 13. The Permanent Conciliation Commission shall fix the period within which the Parties will be required to take their decision as regards the Commission's proposal. This period shall not, however, exceed three months.

ART. 14. If a dispute is submitted to arbitration under the provisions of Articles 1 and 2 of the present Treaty, the Arbitral Tribunal shall be established by agreement between the Parties.

If the Tribunal is not constituted by agreement between the Parties within a period of three months from the date on which one of the Parties shall have submitted a request for arbitration to the other, the following procedure shall be adopted.

Each Party shall appoint two arbitrators, one of whom must be chosen from the list of members of the Permanent Court of Arbitration at the Hague and must not be a national of the Party concerned. The arbitrators thus appointed shall together elect the President of the Tribunal. In the case of an equality of votes, the President of the Swiss Confederation shall, at the request of either of the Parties and in the absence of any agreement to the contrary, be asked to make the necessary appointment.

ART. 15. Should the necessity for arbitration or a procedure before the Permanent Court of International Justice arise, the Contracting Parties undertake to conclude within three months from the date on which one of the Parties shall have submitted the re-



la demande d'arbitrage, un compromis spécial, déterminant nettement l'objet du différend, les modalités de la procédure s'il y a lieu, ainsi que toutes autres conditions arrêtées entre Elles.

A défaut de clauses compromissoires contraires, Elles se conformeront pour tout ce qui concerne la procédure arbitrale aux dispositions établies par la Convention signée à la Haye le 18 octobre 1907 pour le règlement des conflits internationaux, respectivement à celles stipulées dans le statut de la Cour permanente de Justice internationale.

ART. 16. La sentence arbitrale est obligatoire et doit être exécutée de bonne foi par les Parties.

Si, toutefois, la sentence établissait qu'une décision d'une instance judiciaire ou de toute autre autorité relevant des Parties Contractantes se trouve entièrement ou partiellement en opposition avec une règle du droit international, et si le droit interne de cette Partie ne permettait d'effacer ou de n'effacer qu'imparfaitement par voie administrative les conséquences de la décision dont il s'agit, il sera accordé à la Partie lésée une satisfaction équitable d'un autre ordre.

ART. 17. Pendant la durée effective de la procédure de conciliation ou d'arbitrage, les membres de la Commission permanente de conciliation désignés en commun et du Tribunal arbitral reçoivent une indemnité dont le montant sera arrêté entre les Parties Contractantes.

Chaque Partie supportera ses propres frais et une part égale des

quest for arbitration to the other, a special agreement clearly defining the subject of the dispute, the method of procedure, if necessary, and any other conditions agreed upon between them.

In the absence of any clauses in the agreement to the contrary, they shall conform, as regards the arbitral procedure, to the provisions of the Convention signed at the Hague on October 18, 1907, for the Settlement of International Disputes, or to the provisions in the Statute of the Permanent Court of International Justice.

ART. 16. The arbitral award shall be binding and shall be executed in good faith by the Parties.

If, however, it is established in the award that a decision by a Court of law or any other authority of one of the Contracting Parties was wholly or partly at variance with international law, and if the constitutional law of that Party does not allow of the complete or partial cancellation<sup>1</sup> by administrative measures of the effects, of the said decision, the injured Party shall be granted equitable compensation of another kind.

ART. 17. For the actual duration of the procedure of conciliation or arbitration the permanent members of the Conciliation Commission<sup>2</sup> jointly appointed, and of the Arbitral Tribunal, shall receive an allowance to be fixed by the Contracting Parties.

Each Party shall bear its own costs and half the costs of the Commission, and of the Tribunal, in-

<sup>1</sup> Cf. p. 193, *supra*, note 1.

<sup>2</sup> Not 'permanent members of the Conciliation Commission' but 'members of the Permanent Conciliation Commission.' See the French text.

frais de la Commission et du Tribunal, y compris les indemnités prévues à l'alinéa premier.

ART. 18. Durant le cours de la procédure de conciliation ou de la procédure arbitrale, les Parties Contractantes s'abstiendront de toute mesure pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission permanente de conciliation ou sur l'exécution de la sentence arbitrale.

ART. 19. En cas de contestation sur le sens ou la portée de la sentence arbitrale, il appartient au Tribunal qui l'a rendue de l'interpréter à la demande de l'une des Parties.

ART. 20. Si le présent Traité ou d'autres conventions existant entre les Parties Contractantes ne contiennent aucune disposition concernant des délais ou d'autres modalités de la procédure de conciliation ou d'arbitrage, la Commission permanente de conciliation ou respectivement le Tribunal arbitral sont autorisés à y suppléer de plein droit.

ART. 21. Tout différend relatif à l'interprétation du présent Traité ou d'un compromis conclu par les Parties Contractantes en vertu des dispositions du présent Traité, sera soumis à la Cour permanente de Justice internationale.

ART. 22. Le présent Traité sera ratifié par le Président de la République de Pologne avec l'assentiment du Parlement Polonais et par Sa Majesté le Roi de Suède avec l'approbation du Riksdag. L'échange des ratifications aura lieu à Varsovie aussitôt que faire se pourra.

Le Traité entrera en vigueur le trentième jour après l'échange des

cluding the allowances provided under paragraph 1.

ART. 18. During the procedure of conciliation or arbitration, the Contracting Parties shall refrain from all measures which might prejudicially affect the acceptance of the proposals of the Permanent Conciliation Commission, or the execution of the arbitral award.

ART. 19. In case of dispute regarding the meaning or scope of the arbitral award, the Tribunal which has given it may be called upon to interpret it, at the request of one of the Parties.

ART. 20. In so far as the present Treaty or other Conventions existing between the Contracting Parties, contain no provisions regarding the time-limits or other details connected with the procedure of conciliation or arbitration, the Permanent Conciliation Commission or the Arbitral Tribunal shall itself be fully competent to decide as to the necessary provisions.

ART. 21. Any dispute regarding the interpretation of the present Treaty or of a special agreement arrived at by the Contracting Parties in virtue of the present Treaty shall be submitted to the Permanent Court of International Justice.

ART. 22. The present Treaty shall be ratified by the President of the Polish Republic, with the assent of the Polish Parliament, and by His Majesty the King of Sweden, with the approval of the Riksdag. The exchange of ratifications shall take place at Warsaw as soon as possible.

The Treaty shall come into force on the thirtieth day after the ex-

ratifications et aura une durée de trois années. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il demeurera en vigueur pendant une nouvelle période de trois années, et ainsi de suite.

En foi de quoi, les Plénipotentiaires ont signé le présent Traité.

Fait à Stockholm, en double exemplaire, le 3 novembre mil neuf cent vingt cinq.

Alfred Wysocki  
Undén  
Dr. J. Makowski

change of ratifications, and shall be valid for three years. If not denounced six months before the end of this period, it shall remain in force for a further period of three years, and so on.

In faith whereof the Plenipotentiaries have signed the present Treaty.

Done at Stockholm in duplicate on November the third, One thousand nine hundred and twenty-five.

Alfred Wysocki  
Undén  
Dr. J. Makowski

#### PROTOCOL OF SIGNATURE

Au moment de procéder à la signature du Traité de conciliation et d'arbitrage en date de ce jour, les Parties Contractantes conviennent que dans le cas, où la Pologne ratifierait plus tard la clause facultative à l'article 36 du statut de la Cour permanente de Justice internationale, la dite Cour, au lieu du Tribunal prévu dans le Traité, sera par la suite compétente en ce qui concerne tous les litiges auxquels la clause susvisée se rapporte.

Il est bien entendu toutefois que cette obligation sera sujette aux mêmes réserves et aura la même durée que l'adhésion du Gouvernement polonais à la clause facultative en question.

En foi de quoi, les Plénipotentiaires ont signé le présent Protocole.

Fait à Stockholm, en double exemplaire, le 3 novembre mil neuf cent vingt cinq.

Alfred Wysocki  
Undén  
Dr. J. Makowski

On proceeding this day to sign the Treaty of Conciliation and Arbitration, the Contracting Parties agree that, should Poland later ratify the Optional Clause in Article 36 of the Statute of the Permanent Court of International Justice, the said Court instead of the Tribunal provided for under the Treaty shall thereafter be competent in all disputes covered by the aforementioned clause.

It is, however, agreed that this obligation is subject to the same reservations, and shall be valid for the same period as the Polish Government's adhesion to the Optional Clause in question.

In faith whereof the Plenipotentiaries have signed the present Protocol.

Done at Stockholm in duplicate on November the third, One thousand nine hundred and twenty-five.

Alfred Wysocki  
Undén  
Dr. J. Makowski

## PERMANENT COMMISSION OF CONCILIATION

(Appointed September 28, 1927)

*President appointed by both Parties*

NICHOLAS POLITIS, Professor, Greek Minister to France, former Minister for Foreign Affairs of Greece. (*Greek.*)

*Members appointed by both Parties*

HENRY ROLIN, Barrister and Legal Advisor to the Ministry for Foreign Affairs of Belgium. (*Belgian.*)

CHRISTIAN SINDBALLE, Professor, former Minister of Justice of Denmark. (*Danish.*)

*Member appointed by Poland*

MICHAEL ROSTWOROWSKI, Professor at the University of Cracow. (*Polish.*)

*Member appointed by Sweden*

ÖSTEN UNDÉN, Professor at the University of Upsala, former Minister for Foreign Affairs of Sweden. (*Swedish.*)

## No. 50

GREAT BRITAIN-SIAM: TREATY OF COMPULSORY  
ADJUDICATION

Signed at London November 25, 1925; ratifications exchanged February 2, 1927.

Original text from Great Britain, *Treaty Series*, 1927, No. 7 (Cmd. 2813).<sup>1</sup>

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and His Majesty the King of Siam, parties to the Protocol establishing the Permanent Court of International Justice, signed at Geneva on the 16th December, 1920, being desirous of concluding a Convention with a view of referring to arbitration all questions which they may consider possible to submit to that mode of settlement, have appointed as their plenipotentiaries:

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India:

The Right Honourable Joseph Austin Chamberlain, a Member of Parliament, His Majesty's Principal Secretary of State for Foreign Affairs; and

His Majesty the King of Siam:

Phya Prabha Karavongs, His Majesty's Envoy Extraordinary and Minister Plenipotentiary at the Court of His Britannic Majesty;

Who, having communicated to each other their respective full powers, found in good and true form, have agreed as follows:

<sup>1</sup> See also League of Nations, *Treaty Series*, XLIII, 162.

ARTICLE 1. Differences of a legal nature which may arise between the two Contracting Parties and which it may not have been possible to settle by diplomacy, in the absence of contrary agreement shall, at the request of either Party, be referred to the Permanent Court of International Justice established by the Protocol of December 16, 1920 in accordance with the procedure laid down in the statutes of that Court and in the rules of court adopted thereunder, provided, nevertheless, that such differences do not affect the vital interests, the independence or the honour of the two Contracting Parties, and do not concern the interests of third parties. The Contracting Parties agree to accept the decision of the Court as binding.

ART. 2. The present Convention, which shall be ratified, is concluded for a period of five years dating from the exchange of ratifications, which shall take place at London as soon as possible. In case neither of the two Contracting Parties shall have given notice to the other twelve months before the expiration of the said period of five years of its intention to terminate the present Convention, it shall remain in force until the expiration of one year from the date on which either of the two Contracting Parties shall have denounced it.

In witness whereof the respective plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done in duplicate in the English language at London, the twenty-fifth day of November in the nineteen hundred and twenty-fifth year of the Christian era, corresponding to the twenty-fifth day of the eighth month in the two thousand four hundred and sixty-eighth year of the Buddhist era.

Austin Chamberlain  
Prabha Karavongs

## No. 51

### NORWAY-SWEDEN: TREATY OF CONCILIATION AND ARBITRATION

Signed at Oslo November 25, 1925; ratifications exchanged March 10, 1927.

Original text from Sweden, *Överenskommelser med frammande makter*, 1927, No. 3;<sup>1</sup> English translation from League of Nations, *Treaty Series*, LX, 305-309.

(Translation)

Hans Majestet Norges Konge og  
Hans Majestet Kongen av Sverige,  
som er besjelet av ønsket om å  
fremme bestrebelsene for avgjø-  
relse av mellemfolkelige tvister på  
fredelig måte, er i dette øiemed  
blitt enige om, i tilslutning til den

His Majesty the King of Sweden  
and His Majesty the King of Nor-  
way, being desirous of promoting  
efforts for the pacific settlement of  
international disputes, have agreed  
for this purpose to supplement the  
Convention concerning the estab-

<sup>1</sup> See also League of Nations, *Treaty Series*, LX, 296. The Swedish text is also authentic.

konvensjon angående opprettelsen av en fast undersøkelses- og forliksnevnd som blev inngått mellem de to riker den 27. juni 1924, å avslutte en konvensjon angående fredelig avgjørelse av tvister, og har som Sine befullmæktigede ved avsluttelsen av en sådan konvensjon opnevnt:

Hans Majestet Norges Konge:

Hans Majestets stats- og utenriksminister Johan Ludwig Mowinckel, og

Hans Majestet Kongen av Sverige:

Hans Majestets overordentlige sendemann og befullmæktigede minister i Oslo Torvald Magnusson Höjer,

hvilke, behørig befullmæktigede, er kommet overens om følgende bestemmelser:

ARTIKKEL 1. Opstår der mellem de Kontraherende Parter retstvister som kan henføres til nogen av de slags tvister som er omhandlet i art. 36, 2. ledd i vedtektene for den Faste Mellemfolkelige Domstol, og som ikke har kunnet løses på diplomatisk vei, skal den henskytes til avgjørelse av den nevnte domstol overensstemmende med forskriftene i de nevnte vedtekter.

Tvister som de Kontraherende Parter ved andre mellem dem gjeldende overenskomster har forpliktet sig til å løse ved en særskilt doms- eller voldgiftsbehandling, skal behandles efter bestemmelsene i disse overenskomster.

Meningsforskjell angående fortolkningen av nærværende konvensjon skal avgjøres av den Faste Mellemfolkelige Domstol.

ART. 2. De Kontraherende Parter forplikter sig til å henskyte til voldgiftsbehandling overensstem-

lishment of a Permanent Commission of Enquiry and Conciliation concluded between the two countries on June 27, 1924, by a Convention for the pacific settlement of disputes, and have appointed as their Plenipotentiaries:

His Majesty the King of Sweden:

M. Torvald Magnusson Höjer, His Envoy Extraordinary and Minister Plenipotentiary at Oslo;

His Majesty the King of Norway:

M. Johan Ludwig Mowinckel, His Prime Minister and Minister for Foreign Affairs;

Who, being duly authorised for the purpose, have agreed upon the following provisions:

ARTICLE 1. Any legal dispute arising between the Contracting Parties which falls within one of the categories specified in Article 36, paragraph 2, of the Statute of the Permanent Court of International Justice and which it has not been possible to settle by diplomacy, shall be submitted for judgment to the said Court in accordance with the provisions of the said Statute.

Disputes for the settlement of which the Contracting Parties have undertaken, under other Conventions in force between them, to have recourse to a special judicial or arbitral procedure, shall be dealt with in accordance with the terms of such agreements.

Any divergence of views regarding the interpretation of the present Convention shall be settled by the Permanent Court of International Justice.

ART. 2. The Contracting Parties undertake to submit to arbitration, in accordance with the ensuing

mende med de følgende bestemmelser alle andre enn de i artikkel 1 nevnte tvister, dog først efter at de har vært underkastet den undersøkelses- og forliksbehandling som er omhandlet i konvensjonen av 27. juni 1924 angående opprettelse av en fast undersøkelses- og forliksnevnd, uten derigjennem å ha opnådd løsning.

Partene er enige om at de tvister, som omhandles i nærværende artikkel, skal avgjøres efter grundsetningene for rett og billighet.

ART. 3. Hvis Partene ikke er kommet overens om noget annet, skal en voldgiftsrett til behandling av tvist efter artikkel 2 i denne konvensjon sammensettes overensstemmende med reglene i title IV, kap. II i Haagkonvensjonen av 18. oktober 1907 angående avgjørelse av internasjonale tvister på fredelig måte.

ART. 4. I den utstrekning Partene ikke har truffet annen bestemmelse angående voldgiftsbehandlingen, skal reglene i titel IV, kap. III i Haagkonvensjonen av 18. oktober 1907 angående avgjørelse av internasjonale tvister på fredelig måte komme til anvendelse.

Hvis en sådan voldgiftsavtale som er omhandlet i den nevnte Haagkonvensjon, ikke er undertegnet innen seks måneder efterat den ene Part overfor den annen Part har fremført anmodning om at tvisten henskytes til voldgift, skal voldgiftsavtalen på anmodning av en av Partene fastsettes på den måte som er foreskrevet i artiklene 53 og 54 i den nevnte Haagkonvensjon.

I de tilfelle nærværende konvensjon henviser til bestemmelsene i Haagkonvensjonen, skal disse bestemmelser få anvendelse mellom

provisions, all disputes other than those mentioned in Article 1, provided that they have first been subjected to the procedure of enquiry and conciliation provided for in the Convention of June 27, 1924, concerning the establishment of a Permanent Commission of Enquiry and Conciliation, and that it has not been possible to settle them by this means.

The Parties agree that the disputes referred to in the present Article shall be settled in accordance with the principles of law and equity.

ART. 3. Except where otherwise provided by agreement between the Parties, an arbitral tribunal to deal with disputes under Article 2 of the present Convention shall be constituted in conformity with the provisions of Title IV, Chapter II, of The Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 4. Unless the Parties have agreed otherwise, the arbitration procedure shall be governed by the provisions of Title IV, Chapter III, of The Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

In case the arbitration agreement provided for in The Hague Convention shall not have been signed within six months from the date on which one of the Parties has proposed to the other the submission of the dispute to arbitration, the said agreement shall, at the request of either of the Parties, be drawn up in the manner prescribed in Articles 53 and 54 of the said Hague Convention.

In cases in which the present Convention refers to provisions of The Hague Convention, the said provisions shall be applicable be-

Partene også i tilfelle av at begge Parter eller en av dem har fratrått den sistnevnte konvensjon.

ART. 5. Voldgiftsretten skal på begjæring av en av Partene angi de forberedende forholdsregler som bør tas for å beskytte denne Parts rett, forsåvidt disse forholdsregler kan tas på administrativ vei.

ART. 6. Voldgiftskjendelsen skal, når der finnes anledning til det, inneholde anvisning på hvorledes den skal fullbyrdes, særlig med hensyn til de tidsfrister som skal iakttas.

ART. 7. Med hensyn til spørsmål som, overensstemmende med lovgivningen i det land overfor hvilket en begjæring fremsettes, skal avgjøres av en domstol, herunder innbefattet forvaltningsdomstol, kan vedkommende Part ikke forlange at den i artikkel 1 eller 2 omhandlede fremgangsmåte får anvendelse, før sakens behandling ved domstol har ført til en endelig avgjørelse. I så fall skal tvistens henskytelse til dom eller voldgift skje senest 6 måneder efter en sådan avgjørelse.

ART. 8. Blir det i en dom eller voldgiftskjendelse fastslått at en avgjørelse eller en forföining truffet av en domstol eller annen myndighet i den ene stat helt eller delvis står i strid med folkeretten, og kan følgene av avgjørelsen eller forföiningen i følge denne stats forfatning ikke helt eller delvis fjernes, er Partene enige om at den forurettede Part ved dommen eller voldgiftskjendelsen kan tilkjennes passende godtgjørelse på annen måte.

tween the Parties, even if The Hague Convention has ceased to be binding on the two Parties or on either of them.

ART. 5. The arbitral tribunal may at the request of either of the Parties indicate the provisional measures to be taken in order to safeguard the rights of that Party, provided however that such measures can be taken by administrative action.

ART. 6. The arbitral award shall, when circumstances require, specify the manner in which it is to be carried out, in particular as regards the time limits to be observed.

ART. 7. With regard to questions which, under the laws of the country against which an application is made, are within the competence of the courts, including the administrative courts, the Party concerned may not demand the application of the procedure laid down in Article 1 or in Article 2 until a final judgment has been given as a result of judicial proceedings. In such a case the dispute must be sent for adjudication by judicial or arbitral procedure within six months from the date of the final judgment.

ART. 8. If the judicial decision or the arbitral award declares that any ruling or order of a judicial or other authority of either of the two States is wholly or in part contrary to international law, and if the constitutional law of that State does not permit, or only partially permits, the consequences of the said ruling or order to be annulled, the Parties agree that the Party injured by the judicial decision or arbitral award shall be granted suitable compensation of another kind.



ART. 9. De Kontraherende Parter forplikter sig til under pågående doms- eller voldgiftsbehandling såvidt mulig å undgå enhver foranstaltning som kan motvirke fullbyrdelsen av dommen eller voldgiftskjendelsen.

Partene skal på tro og love rette sig efter dommen eller voldgiftskjendelsen.

ART. 10. Tvister som måtte oppstå mellom Partene angående fortolkningen eller fullbyrdelsen av dommen eller voldgiftskjendelsen skal, i mangel av annen bestemmelse, underkastes avgjørelse av den rett som har avsagt dommen eller voldgiftskjendelsen.

ART. 11. Denne konvensjon skal ratifiseres, for Norges vedkommende av Hans Majestet Norges Konge under forutsetning av det norske Stortings samtykke, og for Sveriges vedkommende av Hans Majestet Kongen av Sverige under forutsetning av den svenske Riksdags samtykke. Ratifikasjonene skal utveksles i Stockholm.

ART. 12. Denne konvensjon trer i kraft den dag ratifikasjonene blir utvekslet og avløser ved sin ikrafttreden voldgiftskonvensjonen av 26. oktober 1905. Den gjelder for en tid av tyve år regnet fra den førstnevnte dag. Hvis den ikke blir opsagt senest to år før utløpet av dette tidsrum, skal den gjelde for ytterligere tyve år, og den skal fremdeles anses forlenget for perioder på tyve år, hvis den ikke blir opsagt minst to år før utløpet av den nærmest foregående tyveårsperiode.

Tvist som ved utløpet av konvensjonens gyldighetstid er gjenstand for doms- eller voldgiftsbehandling efter denne konvensjon, skal sluttbehandles overensstem-

ART. 9. The Contracting Parties undertake to refrain as far as possible during the course of the judicial or arbitral procedure from any action likely to have a prejudicial effect on the execution of the judicial decision or arbitral award.

The Parties shall conform in good faith to the judicial decision or arbitral award.

ART. 10. Any disputes arising between the Parties regarding the interpretation or execution of the judicial decision or arbitral award shall, in the absence of an agreement to the contrary, be submitted for settlement to the tribunal which gave the decision or award.

ART. 11. The present Convention shall be ratified, in the case of Sweden by His Majesty the King of Sweden with the approval of the Swedish Riksdag, and in the case of Norway by His Majesty the King of Norway, with the approval of the Norwegian Storting. The instruments of ratification shall be exchanged at Stockholm.

ART. 12. The present Convention shall come into force on the date of the exchange of the instruments of ratification and shall supersede the Arbitration Convention of October 26, 1905. It shall be valid for twenty years from the aforesaid date. Unless it is denounced at least two years before the expiration of that period, it shall remain in force for a further period of twenty years and shall thereafter be considered as prolonged for successive periods of twenty years unless it has been denounced at least two years before the expiration of the preceding period.

If, at the time when the present Convention ceases to be valid, pro-

mende med konvensjonens bestemmelser.

Til bekreftelse herav har de befullmektigede undertegnet denne konvensjon og forsynt den med sine segl.

Utfærdiget i to eksemplarer i Oslo den 25 november 1925.

Joh. Ludw. Mowinckel  
Torvald Höjer

ceedings in respect of a dispute are pending before a judicial or arbitral tribunal in virtue of the present Convention, such dispute shall be disposed of in accordance with the provisions of the Convention.

In faith whereof the Plenipotentiaries have signed the present Convention and have affixed their seals thereto.

Done in duplicate at Oslo, November 25, 1925.

Torvald Höjer  
Joh. Ludw. Mowinckel

#### PROTOCOL OF SIGNATURE

I forbindelse med undertegning idag av en konvensjon mellem Norge og Sverige angående fredelig avgjørelse av tvister, er de undertegnede, behørig befullmektigede, kommet overens om at konvensjonen av 27. juni 1924 angående opprettelsen av en fast undersøkelses- og forliksnevnd, uansett bestemmelsene i sistnevnte konvensjons artikkel 18, skal gjelde sålenge den idag undertegnede konvensjon angående fredelig avgjørelse av tvister er i kraft.

Til bekreftelse herav har de befullmektigede undertegnet denne protokoll og forsynt den med sine segl.

Utfærdiget i to eksemplarer i Oslo den 25 november 1925.

Joh. Ludw. Mowinckel  
Torvald Höjer

When proceeding, on this day, to sign a Convention between Sweden and Norway for the pacific settlement of disputes, the undersigned, being duly authorised for the purpose, have agreed that the Convention of June 27, 1924, concerning the establishment of a Permanent Commission of Enquiry and Conciliation shall remain in force, notwithstanding the provisions of Article 18 of the said Convention, so long as the Convention for the pacific settlement of disputes, signed on this day, shall remain valid.

In faith whereof, the Plenipotentiaries have signed the present Protocol and have thereto affixed their seals.

Done in duplicate at Oslo, November 25, 1925.

Torvald Höjer  
Joh. Ludw. Mowinckel

## No. 52

THE NETHERLANDS-SWITZERLAND: TREATY  
OF CONCILIATION

Signed at The Hague December 12, 1925; ratifications exchanged June 11, 1927.

Original text from Netherlands, *Staatsblad*, 1927, No. 204; <sup>1</sup> English translation from League of Nations, *Treaty Series*, LXIII, 291-297.

## (Translation)

Sa Majesté la Reine des Pays-Bas et Le Conseil Fédéral Suisse, animés du désir de resserrer les liens d'amitié qui unissent les Pays-Bas et la Suisse et de favoriser le règlement pacifique par voie de conciliation des différends qui pourraient naître entre les deux Pays et qui ne seraient pas résolus d'autre manière, ont décidé de conclure à cet effet un traité et ont nommé pour leurs Plénipotentiaires, savoir,

Sa Majesté la Reine des Pays-Bas:

Son Excellence Jonkheer H. A. van Karnebeek, Son Ministre des Affaires Etrangères;

et le Conseil Fédéral Suisse:

Monsieur A. de Pury, Envoyé Extraordinaire et Ministre Plénipotentiaire de la Confédération Suisse à La Haye,

lesquels, après s'être communiqué leurs pleins pouvoirs respectifs, trouvés en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Tout différend, de quelque nature qu'il soit, qui s'élèverait entre les Parties contractantes et n'aurait pu être résolu par la voie diplomatique dans un délai raisonnable et qui ne serait pas susceptible d'un règlement

The Swiss Federal Council and Her Majesty the Queen of the Netherlands, being desirous of strengthening the bonds of friendship which unite Switzerland and the Netherlands and of promoting the peaceful settlement by conciliation of any disputes which may arise between the two countries and which cannot be settled in any other manner, have decided to conclude a treaty for that purpose and have appointed as their Plenipotentiaries the following:

The Swiss Federal Council:

M. A. de Pury, Envoy Extraordinary and Minister Plenipotentiary of the Swiss Confederation at The Hague;

Her Majesty the Queen of the Netherlands:

His Excellency Jonkheer H. A. van Karnebeek, Her Minister for Foreign Affairs;

Who, after having communicated to each other their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1. Any dispute of any nature whatever which may arise between the Contracting Parties and which it may not have been possible to settle by the diplomatic channel within a reasonable period, and which is not capable of judicial

<sup>1</sup> See also League of Nations, *Treaty Series*, LXIII, 290.

judiciaire ou arbitral, conformément à l'article 36, alinéa 2, du Statut de la Cour permanente de Justice internationale ou conformément à toute autre convention internationale en vigueur entre les Parties contractantes, sera soumis, à la demande des deux Parties ou de l'une d'entre elles, à une Commission permanente de conciliation, aux fins d'examen et de rapport.

Les Parties contractantes pourront convenir qu'un différend qui serait susceptible d'un règlement judiciaire ou arbitral sera préalablement déféré à la procédure de conciliation. Si, dans un différend de cette nature, l'une des Parties n'accepte pas les propositions de la Commission dans un délai raisonnable, chacune d'elles pourra soumettre le différend à la Cour permanente de Justice internationale.

ART. 2. La Commission permanente de conciliation sera composée de cinq membres.

Les Parties contractantes nommeront chacune un membre à leur gré et désigneront les trois autres d'un commun accord. Ces trois membres ne devront, ni être des ressortissants des Etats contractants, ni avoir leur domicile sur leur territoire ou se trouver ou s'être trouvés à leur service.

Le Président de la Commission sera nommé, d'un commun accord, parmi les membres désignés en commun.

La Commission sera constituée dans les six mois qui suivront l'échange des ratifications du présent traité.

Si la nomination des membres à désigner en commun ou du président n'intervient pas dans les six mois à compter de l'échange des ratifications ou, en cas de retraite ou de décès, dans les deux mois à

or arbitral settlement in accordance with Article 36, paragraph 2, of the Statute of the Permanent Court of International Justice or in conformity with any other international convention in force between the Contracting Parties, shall be submitted, at the request of either or both of the Parties, to a permanent conciliation commission for examination and report.

The Contracting Parties may agree that a dispute which is capable of judicial or arbitral settlement shall first be submitted to the procedure of conciliation. If in any dispute of this nature one of the Parties does not accept the Commission's proposals within a reasonable period, either of them may submit the dispute to the Permanent Court of International Justice.

ART. 2. The Permanent Conciliation Commission shall be composed of five members.

Each Contracting Party shall appoint one member of its own choosing, the other three being selected by joint agreement. The latter may not be nationals of the Contracting States, nor may they be domiciled in their territory or be or have been employed in their service.

The President of the Commission shall be appointed by joint agreement from among the jointly selected members.

The Commission shall be set up within six months of the exchange of ratifications of the present Treaty.

If the appointment of the members to be nominated jointly or the appointment of the President is not made within six months from the exchange of ratifications, or, in case of resignation or death, within two

compter de la vacance du siège, Sa Majesté le Roi de Danemark sera prié, au besoin par une seule des Parties, de procéder à ces nominations.

ART. 3. Les membres de la Commission de conciliation seront nommés pour trois ans. Sauf accord contraire entre les Parties contractantes, ils ne pourront être révoqués pendant la durée de leur mandat. En cas de décès ou de retraite d'un membre, il devra être pourvu à son remplacement pour le reste de la durée de son mandat.

Si le mandat d'un membre désigné d'un commun accord expire sans qu'aucune des Parties s'oppose à son renouvellement, le mandat sera censé renouvelé pour une nouvelle période de trois ans. De même, si à l'expiration du mandat d'un membre désigné par l'une des Parties, cette Partie n'a pas pourvu à son remplacement, son mandat sera censé renouvelé pour trois ans.

Un membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part à l'examen du différend jusqu'à clôture de la procédure.

ART. 4. La Commission de conciliation déterminera son siège. Elle pourra en décider librement le transfert.

ART. 5. Dans les quinze jours qui suivent la notification d'une demande de conciliation à la Commission permanente de conciliation, chacune des Parties contractantes pourra remplacer le membre librement désigné par elle par une personne possédant une compétence spéciale dans la matière qui fait l'objet du différend.

La Partie qui entendrait user de ce droit en avertira immédiatement

months after the vacancy occurs, His Majesty the King of Denmark shall be requested, if necessary by one of the Parties only, to make the appointment.

ART. 3. The members of the Conciliation Commission shall be appointed for three years. Their appointment shall not be revoked during the term of their mandate unless the Contracting Parties decide otherwise. In the event of the death or resignation of a member, arrangements shall be made to replace him for the remainder of his mandate.

If the mandate of a member selected by joint agreement shall expire and if neither Party is opposed to its renewal, it shall be deemed to be renewed for a further period of three years. Similarly, if on the expiry of the mandate of a member appointed by one of the Parties, no arrangements have been made by that Party to replace him, his mandate shall be deemed to be renewed for three years.

A member whose mandate expires in the course of a procedure shall continue to take part in the examination of the dispute until the procedure is completed.

ART. 4. The Conciliation Commission shall determine its own meeting place and shall be at liberty to transfer it.

ART. 5. Within a fortnight following the notification of a request for conciliation to the Permanent Conciliation Commission, either of the Contracting Parties may replace the member of its own choosing by a person possessing special competence in the matter which forms the subject of the dispute.

If either Party intends to make use of this right, it shall immediately notify the opposing Party.

la Partie adverse; dans ce cas, celle-ci pourra user du même droit dans un délai de quinze jours à compter de la notification qu'elle a reçue.

Au cas où l'un des membres de la Commission de conciliation désignés en commun par les Parties contractantes serait momentanément empêché de prendre part aux travaux de la Commission par suite de maladie ou de toute autre circonstance, les Parties s'entendront pour désigner un suppléant s'il y a lieu, qui siégera temporairement à sa place.

Si la désignation de ce suppléant n'intervient pas dans un délai de trois mois, à compter de la vacance temporaire du siège, Sa Majesté le Roi de Danemark sera prié par les deux Parties ou l'une d'elles de le désigner.

Chaque Partie se réserve de nommer immédiatement un suppléant pour remplacer temporairement le membre permanent, désigné par elle qui, par suite de maladie ou de toute autre circonstance, se trouverait momentanément empêché de prendre part aux travaux de la Commission. La Partie qui entendrait user de ce droit, en avertira immédiatement la Partie adverse.

ART. 6. La Commission de conciliation aura pour tâche d'examiner tout différend qui lui serait soumis par les Parties contractantes et de rédiger un rapport qui déterminera l'état des faits et contiendra, toutes les fois que les circonstances le permettront, des propositions en vue du règlement du différend.

ART. 7. La Commission de conciliation sera saisie sur requête adressée à son président par les deux Parties contractantes ou par l'une d'entre elles. Dans ce dernier cas, notification de la requête sera

In this case the latter may make use of the same right within a fortnight after receiving the notification.

Should any member of the Conciliation Commission jointly selected by the Contracting Parties be temporarily prevented from taking part in the Commission's work as a result of illness or for any other reason, the Parties shall if necessary jointly select a substitute, who will sit temporarily in his place.

If the appointment of this substitute is not made within three months from the time when the temporary vacancy occurs, His Majesty the King of Denmark shall be requested by either or both of the Parties to select him.

Either Party may appoint forthwith a substitute to replace temporarily the permanent member of its own choosing, if as a result of illness or for any other reason the latter is temporarily prevented from taking part in the Commission's work. If either Party intends to make use of this right, it shall immediately notify the opposing Party.

ART. 6. The task of the Conciliation Commission shall be to examine any dispute which may be submitted to it by the Contracting Parties, and to draw up a report, which shall determine the facts of the case and, whenever circumstances permit, shall contain proposals for the settlement of the dispute.

ART. 7. The Conciliation Commission shall be seized of a question by an application addressed to its President by both Contracting Parties or by either of them. In the latter case, the application shall be

faite en même temps à l'autre Partie.

ART. 8. Les Parties contractantes auront le droit de nommer auprès de la Commission de conciliation des agents spéciaux qui serviront, en même temps, d'intermédiaires entre elles et la Commission.

ART. 9. Les Parties contractantes s'engagent à faciliter, dans tous les cas et sous tous les rapports, les travaux de la Commission de conciliation et, en particulier, à accorder à celle-ci toute assistance judiciaire par l'entremise des autorités compétentes.

Les Parties contractantes s'engagent à user des moyens dont elles disposent d'après leur législation intérieure, pour assurer la comparution des témoins ou des experts se trouvant sur leur territoire et cités devant la Commission. Si ceux-ci ne peuvent comparaître devant la Commission, elles feront procéder à leur audition devant leurs autorités compétentes.

ART. 10. Les délibérations de la Commission de conciliation auront lieu à huis clos, à moins que la Commission, d'accord avec les Parties, n'en décide autrement.

ART. 11. La procédure devant la Commission de conciliation sera contradictoire.

La Commission réglera elle-même la procédure, en tenant compte, sauf décision contraire prise à l'unanimité, des dispositions contenues au titre III de la Convention de La Haye pour le règlement pacifique des conflits internationaux du 18 octobre 1907.

ART. 12. Sauf disposition contraire du présent traité, les dé-

notified at the same time to the other Party.

ART. 8. The Contracting Parties shall be entitled to appoint to the Conciliation Commission special agents, who will also serve as intermediaries between themselves and the Commission.

ART. 9. The Contracting Parties undertake to assist the Conciliation Commission in its work in all cases and in every respect, and in particular to afford it, through the competent authorities, all judicial assistance.

The Contracting Parties undertake to use such means as are at their disposal under their internal laws to ensure the attendance of witnesses or experts who are in their territory and who have been cited to appear before the Commission. If such witnesses or experts cannot appear before the Commission itself, the Contracting Parties shall have them heard by their own competent authorities.

ART. 10. The deliberations of the Conciliation Commission shall be held in private unless, in agreement with the Parties, the Commission decides otherwise.

ART. 11. In proceedings before the Commission both Parties shall be heard.

The Commission shall draw up rules to govern its procedure, subject to the proviso that, unless a unanimous agreement to the contrary is reached, the regulations laid down in Chapter III of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes shall be applied.

ART. 12. Except where otherwise laid down in the present

cisions de la Commission de conciliation seront prises à la majorité simple des voix.

ART. 13. La Commission de conciliation présentera son rapport dans les six mois à compter du jour où elle aura été saisie du différend, à moins que les Parties contractantes ne décident, d'un commun accord, d'abréger ou de proroger ce délai. La Commission, de son côté, aura le droit de proroger ce délai une seule fois. Une fois la procédure commencée, il ne sera plus loisible aux Parties contractantes de l'abréger.

L'avis motivé des membres restés en minorité sera consigné dans le rapport.

Un exemplaire du rapport sera remis à chacune des Parties.

Le rapport n'aura, ni en ce qui concerne l'exposé des faits, ni en ce qui concerne les considérations juridiques, un caractère obligatoire.

Les Parties contractantes s'engagent à ne pas publier le rapport individuellement sans s'être consultés au préalable. La Commission pourra ordonner la publication de son rapport, à moins que les deux membres librement nommés par les Parties ne s'y opposent.

ART. 14. Pendant la durée effective de la procédure, les membres de la Commission de conciliation recevront une indemnité dont le montant sera arrêté entre les Parties contractantes.

Chaque Partie supportera ses propres frais et une part égale des frais de la Commission.

ART. 15. Durant le cours de la procédure de conciliation, les Parties contractantes s'abstiendront de toute mesure pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission de conciliation.

Treaty, the Commission shall take its decisions by a majority vote.

ART. 13. The Conciliation Commission shall present its report within six months from the date on which the dispute was submitted to it, unless the Contracting Parties agree to shorten or extend this time-limit. The Commission shall have the right to extend this period once only. After the procedure has been begun the Contracting Parties shall not be entitled to shorten it.

The report shall contain the reasoned opinion of the members who form the minority.

A copy of the report shall be sent to each Party.

The report shall not be binding as regards either the statement of facts or the legal considerations.

The Contracting Parties undertake not to publish the report individually without having first consulted each other. The Commission may order the publication of its report unless the two members freely appointed by the Parties object.

ART. 14. For the actual duration of the procedure the members of the Conciliation Commission shall receive an allowance to be fixed by arrangement between the Contracting Parties.

Each Party shall bear its own costs and half the costs of the Commission.

ART. 15. During the procedure of conciliation the Contracting Parties shall abstain from all measures which might prejudicially affect the acceptance of the Conciliation Commission's proposals.



ART. 16. Le présent traité sera ratifié et les instruments de ratification en seront échangés à La Haye dans le plus bref délai possible.

Le traité est conclu pour la durée de 10 ans, à compter de l'échange des instruments de ratification. S'il n'est pas dénoncé six mois au moins avant l'expiration de ce terme, il demeurera en vigueur pour une nouvelle période de dix ans, et ainsi de suite.

Si une procédure de conciliation est pendante lors de l'expiration du présent traité, elle suivra son cours conformément aux dispositions du présent traité ou de toute autre convention que les Parties contractantes auraient convenu de lui substituer.

En foi de quoi, les Plénipotentiaires susnommés ont signé le présent traité et y ont apposé leurs sceaux.

Fait à La Haye, en double exemplaire, le 12 décembre 1925.

v. Karnebeek  
A. de Pury

ART. 16. The present Treaty shall be ratified and the instruments of ratification shall be exchanged at The Hague as soon as possible.

The Treaty is concluded for a period of ten years from the exchange of the instruments of ratification. Unless denounced at least six months before the expiration of that period, it shall remain in force for a further period of ten years, and similarly thereafter.

If conciliation proceedings are pending at the time when the present Treaty expires, they shall be continued in accordance with the provisions of the present Treaty or of any other convention which the Contracting Parties may have agreed to substitute therefor.

In faith whereof, the above-mentioned Plenipotentiaries have signed the present Treaty and have thereto affixed their seals.

Done in duplicate at The Hague, December 12, 1925.

A. de Pury  
Karnebeek

#### PERMANENT COMMISSION OF CONCILIATION

##### *President appointed by both Parties*

V. SCIALOJA, Senator, former Minister for Foreign Affairs of Italy. (*Italian.*)

##### *Members appointed by both Parties*

ELIEL LÖFGREN, Minister for Foreign Affairs of Sweden. (*Swedish.*)

EMIL REUTER, Honorary Minister of State and former President of the Chamber of Deputies of Luxembourg. (*Luxembourg.*)

##### *Member appointed by the Netherlands*

JONKHEER W. J. M. VAN EYSINGA, Professor at the University of Leyden. (*Dutch.*)

##### *Member appointed by Switzerland*

GOTTFRIED KELLER, Member of the Swiss Council of States. (*Swiss.*)

## No. 53

## CZECHOSLOVAKIA-SWEDEN: TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Prague January 2, 1926; ratifications exchanged April 29, 1926.

Original text from Sweden, *Överenskommelser med främmande makter*, 1926, No. 6;<sup>1</sup>  
English translation from League of Nations, *Treaty Series*, XLVIII, 175-183.

(Translation)

Sa Majesté le Roi de Suède et le Président de la République Tchèqueoslovaque,

animés du désir de développer les relations amicales qui unissent les deux pays,

décidés à donner, dans leurs rapports réciproques, une large application aux principes dont s'inspire la Société des Nations,

ont résolu de conclure un Traité de conciliation et d'arbitrage et ont nommé à cet effet pour Leurs Plénipotentiaires, savoir:

Sa Majesté le Roi de Suède:

S. E. M. le Baron Gerhard Löwen, Envoyé Extraordinaire et Ministre Plénipotentiaire;

Le Président de la République Tchèqueoslovaque:

M. Dr. Edvard Beneš, Ministre des Affaires Etrangères de la République Tchèqueoslovaque;

Lesquels, après avoir échangé leurs pleins pouvoirs reconnus en bonne et due forme, ont convenu des dispositions suivantes:

His Majesty the King of Sweden and the President of the Republic of Czechoslovakia,

Being desirous of developing the friendly relations which unite the two countries, and

Having decided that their relations with one another shall be governed in the largest possible measure by the principles on which the League of Nations is based,

Have decided to conclude a Treaty of Conciliation and Arbitration, and for this purpose have appointed as their Plenipotentiaries:

His Majesty the King of Sweden:

His Excellency Baron Gerhard Löwen, Envoy Extraordinary and Minister Plenipotentiary;

The President of the Republic of Czechoslovakia:

Dr. Edward Beneš, Minister for Foreign Affairs of the Czechoslovak Republic;

Who, having exchanged their full powers, found in good and due form, have agreed upon the following provisions:

## PARTIE I

ARTICLE 1<sup>er</sup>. Toutes contestations entre la Suède et la Tchèqueoslovaquie, de quelque nature qu'elles soient, au sujet desquelles les Parties se contesteraient réciproque-

## PART I

ARTICLE 1. All disputes between Sweden and Czechoslovakia of whatever nature with regard to which the Parties are in conflict as to their respective rights and which

See also League of Nations, *Treaty Series*, XLVIII, 174.

ment un droit, et qui n'auraient pu être réglées à l'amiable par les procédés diplomatiques ordinaires seront soumises pour jugement soit à la Cour permanente de Justice internationale, soit à un Tribunal arbitral ainsi qu'il est prévu ci-après.

Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres conventions en vigueur entre les Hautes Parties Contractantes, seront réglées conformément aux dispositions de ces conventions.

ART. 2. Avant la procédure devant la Cour permanente de Justice internationale la contestation pourra être, d'un commun accord entre les Parties, soumise à fin de conciliation à une commission internationale permanente dite "Commission permanente de conciliation," constituée conformément au présent Traité.

ART. 3. S'il s'agit d'une contestation dont l'objet, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux de celle-ci, y compris les tribunaux administratifs, le différend ne sera soumis à la procédure prévue par le présent Traité qu'après jugement passé en force de chose jugée rendu, dans des délais raisonnables, par l'autorité judiciaire nationale compétente.

ART. 4. La Commission permanente de conciliation prévue à l'article 2 sera composée de cinq membres, qui seront désignés comme il suit, savoir: le Gouvernement Suédois et le Gouvernement Tchécoslovaque nommeront chacun un commissaire choisi parmi leurs nationaux respectifs et désigneront, d'un commun accord, les trois autres commissaires parmi les

it may not be possible to settle amicably by the normal methods of diplomacy shall be submitted for decision either to the Permanent Court of International Justice or to an arbitral tribunal, as provided hereinafter.

Disputes for the settlement of which a special procedure is laid down in other conventions in force between the High Contracting Parties shall be settled in conformity with the provisions of those conventions.

ART. 2. Before any resort is made to the Permanent Court of International Justice the dispute may, by agreement between the Parties, be submitted with a view to amicable settlement to a permanent international commission styled the "Permanent Conciliation Commission" constituted in accordance with the present Treaty.

ART. 3. In the case of a dispute, the occasion of which, according to the municipal law of one of the Parties, falls within the competence of the national courts of such Party, including administrative tribunals, the dispute shall not be submitted to the procedure laid down in the present Treaty until a judgment with final effect has been pronounced, within a reasonable time, by the competent national judicial authority.

ART. 4. The Permanent Conciliation Commission mentioned in Article 2 shall be composed of five members who shall be appointed as follows, that is to say: the Swedish Government and the Czechoslovak Government shall each nominate a commissioner from among their respective nationals and shall appoint, by common agreement, the three other commissioners from

ressortissants de tierces Puissances; ces trois commissaires devront être de nationalités différentes et, parmi eux, les Gouvernements Suédois et Tchécoslovaque désigneront le président de la Commission.

Les commissaires sont nommés pour trois ans; leur mandat est renouvelable. Ils resteront en fonctions jusqu'à leur remplacement; et, dans tous les cas, jusqu'à l'achèvement de leurs travaux en cours au moment de l'expiration de leur mandat.

Il sera pourvu, dans le plus bref délai, aux vacances qui viendraient à se produire par suite de décès, de démission ou de quelque autre empêchement, en suivant le mode fixé pour les nominations.

ART. 5. La Commission permanente de conciliation sera constituée dans les six mois qui suivront l'entrée en vigueur du présent Traité.

Si la nomination des commissaires à désigner en commun n'intervenait pas dans ledit délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, le Président de la Confédération Suisse sera, à défaut d'autre entente, prié de procéder aux désignations nécessaires.

ART. 6. La Commission permanente de conciliation sera saisie, par voie de requête adressée au président, par les deux Parties agissant d'un commun accord ou, à défaut, par l'une ou l'autre des Parties.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes me-

asures among the nationals of third Powers. Those three commissioners must be of different nationalities, and the Swedish and the Czechoslovak Governments shall appoint the President of the Commission from among them.

The commissioners are appointed for three years and their mandate is renewable. Their appointment shall continue until their replacement or in any case until the termination of the work in hand at the moment of the expiry of their mandate.

Vacancies which may occur as a result of death, resignation or any other cause, shall be filled within the shortest possible time in the manner laid down for the nominations.

ART. 5. The Permanent Conciliation Commission shall be instituted within six months from the entry into force of the present Treaty.

If the nomination of the commissioners who have to be appointed by common agreement should not have taken place within the aforesaid period, or, in the case of the filling of a vacancy within three months from the date when the seat falls vacant, the President of the Swiss Confederation shall, in the absence of an agreement, be requested to make the necessary appointment.

ART. 6. Disputes shall be referred to the Permanent Conciliation Commission by means of a request addressed to the President by the two Parties, acting in agreement, or, in the absence of such agreement, by one or other of the Parties.

The request shall give a summary account of the subject of the dispute and shall invite the Com-

sures propres à conduire à une conciliation.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à la Partie adverse.

ART. 7. Dans un délai de 15 jours à partir de la date où le Gouvernement Suédois ou le Gouvernement Tchécoslovaque aurait porté une contestation devant la Commission permanente de conciliation, chacune des Parties pourra, pour l'examen de cette contestation, remplacer son commissaire par une personne possédant une compétence spéciale dans la matière.

La Partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie; celle-ci aura, dans ce cas, la faculté d'agir de même, dans un délai de 15 jours à partir de la date où la notification lui sera parvenue.

ART. 8. La Commission permanente de conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

A la fin de ses travaux, la Commission dressera un procès-verbal constatant, suivant le cas, soit que les Parties se sont arrangées, et s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la Commission devront, à moins que les Parties en conviennent différemment, être terminés dans le délai de six mois à compter du jour où la Commission aura été saisie du litige.

mission to take all necessary measures with a view to arriving at an amicable settlement.

If the request emanates from one Party only, notification thereof shall be made without delay to the other Party.

ART. 7. Within fifteen days from the date on which the Swedish Government or the Czechoslovak Government shall have brought a dispute before the Permanent Conciliation Commission, either Party may replace, for the examination of the particular dispute, its own Commissioner by a person possessing special competence in the matter.

The Party availing itself of this right shall at once notify the other Party. The latter shall, in that case, be entitled to take similar action within fifteen days from the date on which it shall have received notification.

ART. 8. The task of the Permanent Conciliation Commission shall be to elucidate questions in dispute, to collect for this purpose all necessary information by means of enquiry or otherwise and to make every effort to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of settlement which seem suitable to it and lay down a period within which they are to make their decision.

At the close of its labours, the Commission shall draw up a report stating either that the Parties have come to an arrangement and, if need arises, the terms of such agreement, or that it has been impossible to effect a settlement.

The labours of the Commission must, unless the Parties otherwise agree, be terminated within six months from the date on which the Commission shall have been notified of the dispute.

ART. 9. A moins de stipulation spéciale contraire, la Commission permanente de conciliation réglera elle-même sa procédure qui, dans tous les cas, devra être contradictoire. En matière d'enquête, la Commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du titre III (Commissions internationales d'enquête) de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 10. La Commission permanente de conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son président.

ART. 11. Les travaux de la Commission permanente de conciliation ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties.

ART. 12. Les Parties seront représentées auprès de la Commission permanente de conciliation par des agents ayant mission de servir d'intermédiaire entre elles et la Commission; elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraît utile.

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement.

ART. 13. Sauf dispositions contraires du présent Traité, les décisions de la Commission permanente de conciliation seront prises

ART. 9. Failing any special provision to the contrary, the Permanent Conciliation Commission shall lay down its own procedure, which, in any case, must provide for both Parties being heard. In regard to enquiries, the Commission, unless it decides unanimously to the contrary, shall act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 10. The Permanent Conciliation Commission shall meet, in the absence of agreement by the Parties to the contrary, at a place selected by its President.

ART. 11. The labours of the Permanent Conciliation Commission are not public, except when a decision to that effect has been taken by the Commission with the consent of the Parties.

ART. 12. The Parties shall be represented before the Permanent Conciliation Commission by agents whose duty it shall be to act as intermediaries between them and the Commission; they may, moreover, be assisted by counsel and experts appointed by them for that purpose and they may request that all persons whose evidence appears to be useful should be heard.

The Commission on its side shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties, as well as from all persons it may think useful to summon with the consent of their Government.

ART. 13. Unless otherwise provided in the present Treaty, the decisions of the Permanent Conciliation Commission shall be taken

à la majorité des voix. Chaque membre disposera d'une voix; en cas de partage, la voix du président sera décisive.

La Commission ne pourra prendre des décisions portant sur le fond du différend que si tous les membres ont été dûment convoqués et si le président et deux membres au moins sont présents.

ART. 14. Les Gouvernements Suédois et Tchécoslovaque s'engagent à faciliter les travaux de la Commission permanente de conciliation et, en particulier, à lui fournir dans la plus large mesure possible tous documents et informations utiles, ainsi qu'à user des moyens dont ils disposent pour lui permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

ART. 15. Pendant la durée des travaux de la Commission permanente de conciliation chacun des commissaires recevra une indemnité dont le montant sera arrêté, d'un commun accord, entre les Gouvernements Suédois et Tchécoslovaque.

Chaque Gouvernement supportera ses propres frais et une part égale des frais communs de la Commission.

ART. 16. A défaut de conciliation devant la Commission permanente de conciliation, la contestation sera soumise par voie de compromis à la Cour permanente de Justice internationale dans les conditions et suivant la procédure prévues par son statut.

A défaut d'accord entre les Parties sur le compromis et après un préavis d'un mois, l'une ou l'autre d'entre elles aura la faculté de por-

by a majority. Each member shall have one vote; the President shall have a casting vote.

The Commission shall not have power to take any decision relative to the substance of the dispute unless all the members shall have been duly convened and unless, at least, the President and two members are present.

ART. 14. The Swedish Government and the Czechoslovak Government undertake to facilitate the labours of the Permanent Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to allow it to proceed in their territory and in accordance with their law to the summoning and hearing of witnesses or experts, and to visit the localities in question.

ART. 15. During the labours of the Permanent Conciliation Commission each Commissioner shall receive remuneration, the amount of which shall be fixed by joint agreement between the Swedish and Czechoslovak Governments.

Each Government shall pay its own expenses and shall contribute an equal share to the joint expenses of the Commission.

ART. 16. In the event of no amicable agreement being reached before the Permanent Conciliation Commission, the dispute shall be submitted, by means of a special agreement, to the Permanent Court of International Justice under the conditions and according to the procedure laid down by its Statute.

If the Parties cannot agree on the terms of the special agreement after a month's notice, one or other of

ter directement par voie de requête la contestation devant la Cour permanente de Justice internationale.

La disposition de cet article ne porte pas atteinte à la faculté des Parties de soumettre la contestation, par voie de compromis, à un tribunal arbitral dans les conditions et suivant la procédure prévues par la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

## PARTIE II

ART. 17. Toutes questions sur lesquelles le Gouvernement Suédois et le Gouvernement Tchécoslovaque seraient divisés sans pouvoir les résoudre à l'amiable par les procédés diplomatiques ordinaires, dont la solution ne pourrait être recherchée par un jugement ainsi qu'il est prévu par l'article 1<sup>er</sup> du présent Traité et pour lesquelles une procédure de règlement ne serait pas déjà prévue par un Traité en vigueur entre les Parties, seront soumises à la Commission permanente de conciliation, qui sera chargée de proposer aux Parties une solution acceptable et, dans tous les cas, de présenter un rapport.

La procédure prévue par les articles 6 à 15 du présent Traité sera appliquée.

ART. 18. Si, dans le mois qui suivra la clôture des travaux de la Commission permanente de conciliation, les deux Parties ne se sont pas entendues, la question sera, à la requête de l'une ou de l'autre Partie, portée devant le Conseil de la Société des Nations, qui statuera conformément à l'article 15 du Pacte de la Société.

them may bring the dispute directly before the Permanent Court of International Justice by means of an application.

The provisions of this Article shall not affect the right of the Parties to submit the dispute by means of a special agreement to an arbitral tribunal under the conditions and according to the procedure laid down by the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

## PART II

ART. 17. All questions on which the Swedish Government and the Czechoslovak Government disagree, without being able to reach an amicable solution by means of the normal methods of diplomacy, and the settlement of which cannot be attained by means of a judicial decision, as provided in Article 1 of the present Treaty, and for the settlement of which no procedure has been laid down by other conventions in force between the Parties, shall be submitted to the Permanent Conciliation Commission, whose duty it shall be to propose to the Parties an acceptable solution and in any case to present a report.

The procedure laid down in Articles 6 to 15 of the present Treaty shall be applicable.

ART. 18. If the two Parties have not reached an agreement within one month of the termination of the labours of the Permanent Conciliation Commission, the question shall, at the request of either Party, be brought before the Council of the League of Nations, which shall deal with it in accordance with Article 15 of the Covenant of the League.



## DISPOSITIONS GÉNÉRALES

ART. 19. Les Gouvernements Suédois et Tchécoslovaque s'engagent respectivement à s'abstenir, durant le cours d'une procédure ouverte en vertu des dispositions du présent Traité, de toute mesure susceptible d'avoir une répercussion préjudiciable, soit à l'exécution de l'arrêt de la Cour permanente de Justice internationale, soit aux arrangements proposés par la Commission permanente de conciliation ou par le Conseil de la Société des Nations, et en général à ne procéder à aucun acte, de quelque nature qu'il soit, susceptible d'aggraver ou d'étendre le différend.

Dans tous les cas et notamment si la question au sujet de laquelle les Parties sont divisées résulte d'actes déjà effectués ou sur le point de l'être, la Cour permanente de Justice internationale statuant conformément à l'article 41 de son statut, indiquera dans le plus bref délai possible quelles mesures provisoires doivent être prises. Il appartiendra également au Conseil de la Société des Nations, s'il est saisi de la question, de pourvoir à des mesures provisoires appropriées. Les Hautes Parties Contractantes s'engagent à se conformer à des mesures provisoires indiquées ainsi soit par la Cour soit par le Conseil.

ART. 20. Tous différends relatifs à l'interprétation du présent Traité seront soumis à la Cour permanente de Justice internationale.

ART. 21. Le présent Traité sera ratifié et l'échange des ratifications aura lieu à Stockholm aussitôt que faire se pourra.

Le Traité est conclu pour une durée de dix années à compter de la date de l'échange des ratifications. S'il n'est pas dénoncé une année au moins avant l'expiration

## GENERAL PROVISIONS

ART. 19. The Swedish and Czechoslovak Governments undertake respectively, during the course of proceedings commenced in virtue of the provisions of the present Treaty, to abstain from all measures which might prejudicially affect either the execution of the decision of the Permanent Court of International Justice or the arrangements proposed by the Permanent Conciliation Commission or by the Council of the League of Nations, and in general not to commit any act of any kind which might aggravate or extend the dispute.

In any case, and particularly if the question on which the Parties differ arises out of acts already committed or on the point of commission, the Permanent Court of International Justice, acting in accordance with Article 41 of its Statute, shall indicate, within the shortest possible time, the provisional measures to be adopted. It shall similarly be the duty of the Council of the League of Nations, if the question is brought before it, to ensure that suitable provisional measures are taken. The High Contracting Parties undertake to accept the provisional measures thus indicated, whether by the Court or by the Council.

ART. 20. All disputes regarding the interpretation of this Treaty shall be submitted to the Permanent Court of International Justice.

ART. 21. The present Treaty shall be ratified and the exchange of ratifications shall take place at Stockholm as soon as possible.

The Treaty shall be concluded for ten years reckoned from the date of the exchange of ratifications. Unless it shall have been denounced at least one year before

de ce terme, il demeurera en vigueur pour une nouvelle période de dix années et ainsi de suite.

En foi de quoi, les Plénipotentiaires ont signé le présent Traité.

Fait à Prague, le 2 janvier 1926.

Sous réserve de ratification par Sa Majesté le Roi avec l'approbation du Riksdag.

G. Löwen

Dr. Edvard Beneš

the expiration of this term, it shall remain in force for a further period of ten years, and so on for successive periods.

In faith whereof the Plenipotentiaries have signed the present Treaty.

Done at Prague, January 2, 1926.

Subject to ratification by His Majesty the King with the approval of the Riksdag.

G. Löwen

Dr. Edvard Beneš

#### PERMANENT COMMISSION OF CONCILIATION

(Appointed October 29, 1928)

*President appointed by both Parties*

Vacant.

*Members appointed by both Parties*

CORNELIS VAN VOLLENHOVEN, Professor at the University of Leyden. (Dutch.)

SIR JOHN FISCHER WILLIAMS, British Delegate to the Reparations Commission. (British.)

*Member appointed by Czechoslovakia*

JAROSLAV KALLAB, Professor at the University of Brunn. (Czechoslovakian.)

*Member appointed by Sweden*

ERIK MARTIN KELLBERG, Under-Secretary of State of the Swedish Ministry of Justice. (Swedish.)

#### No. 54

#### DENMARK-SWEDEN: TREATY OF CONCILIATION AND ARBITRATION

Signed at Stockholm January 14, 1926; ratifications exchanged July 20, 1926.

Original text from Sweden, *Överenskommelser med främmande makter*, 1926, No. 23;<sup>1</sup> English translation from League of Nations, *Treaty Series*, LI, 257-261.

(Translation)

Hans Majestät Konungen av Sverige och Hans Majestät Konungen av Danmark och Island, vilka äro besjälade av önskan att främja

His Majesty the King of Sweden and His Majesty the King of Denmark and Iceland, being desirous of promoting efforts for the pacific

<sup>1</sup> See also League of Nations, *Treaty Series*, LI, 252. The Danish text is also authentic.

strävandena till avgörande på fredlig väg av mellanstatliga tvister, hava i detta syfte överenskommit att i anslutning till den konvention angående upprättandet av en fast undersöknings och förlikningsnämnd, som ingåtts mellan Sverige och Danmark den 27 juni 1924, avsluta en konvention angående fredligt avgörande av tvister och hava till Sina fullmäktige för avslutandet av en sådan konvention utsett:

Hans Majestät Konungen av Sverige:

Sin Minister för Utrikes Ärendena, Hans Excellens Bo Östen Undén, och

Hans Majestät Konungen av Danmark och Island:

Sin Envoyé extraordinaire och Ministre plénipotentiaire i Stockholm, Erik Scavenius,

vilka, därtill vederbörligen bemyndigade, överenskommit om följande bestämmelser:

ARTIKEL 1. Uppstår mellan Sverige och Danmark rättstvister, som är hänförlig till någon av de i art. 36 mom. 2 av stadgan för den fasta mellanfolkliga domstolen angivna kategorier, och som icke kunnat lösas på diplomatisk väg, skall den hänskjutas till avgörande inför nämnda domstol i enlighet med bestämmelserna i sagda stadga.

Twister, för vilkas lösande de fördragsslutande parterna genom andra mellan dem gällande överenskommelser förbundit sig att anlita ett särskilt doms- eller skiljedomsförfarande, skola behandlas enligt bestämmelserna i dessa överenskommelser.

Meningsskiljaktighet rörande tolkningen av förevarande konvention skall avgöras av den fasta mellanfolkliga domstolen.

settlement of international disputes, have agreed for this purpose to supplement the Convention concerning the establishment of a Permanent Commission of Enquiry and Conciliation concluded between Sweden and Denmark on June 27, 1924, by a Convention for the pacific settlement of disputes, and have appointed as their Plenipotentiaries:

His Majesty the King of Sweden:

His Excellency M. Bo Östen Undén, His Minister for Foreign Affairs;

His Majesty the King of Denmark and Iceland:

M. Erik Scavenius, His Envoy Extraordinary and Minister Plenipotentiary at Stockholm;

Who, being duly authorised for the purpose, have agreed upon the following provisions:

ARTICLE 1. Any legal dispute arising between Sweden and Denmark which falls within one of the categories specified in Article 36, paragraph 2, of the Statute of the Permanent Court of International Justice and which it is not possible to settle by diplomacy, shall be submitted for judgment to the said Court in accordance with the provisions of the said Statute.

Disputes for the settlement of which the Contracting Parties have undertaken, under other Conventions in force between them, to have recourse to a special judicial or arbitral procedure, shall be dealt with in accordance with the terms of such agreements.

Any divergence of views regarding the interpretation of the present Convention shall be settled by the Permanent Court of International Justice.

ART. 2. De fördragsslutande parterna förplikta sig att till skiljedomsförfarande jämlikt nedanstående bestämmelser hänskjuta alla andra än de i art. 1 omnämnda tvister, dock först sedan de underkastats det i konventionen den 27 juni 1924 angående upprättandet av en fast undersöknings- och förlikningsnämnd omhandlade undersöknings- och förlikningsförfarande utan att därigenom hava vunnit sin lösning.

Parterna äro ense om att de tvister, som avses i förevarande artikel, skola avgöras efter grundsatserna för rätt och billighet.

ART. 3. Därest parterna ej anorlunda överenskomma, skall skiljedomstol för behandling av tvist jämlikt art. 2 i denna konvention tillsättas i enlighet med bestämmelserna i Haag-konventionen den 18 oktober 1907 för avgörandet på fredlig väg av internationella tvister, avdelning IV, kap. II.

ART. 4. I den mån parterna i fråga om skiljedomsförfarandet ej anorlunda överenskomma, skola bestämmelserna i Haagkonventionen den 18 oktober 1907 för avgörandet på fredlig väg av internationella tvister, avdelning IV, kap. III, därvid lända till efterättelse.

Därest sådant skiljeavtal, som avses i sagda Haag-konvention, ej undertecknats inom sex månader efter det ena parten till den andra framfört yrkanden om tvists hänskjutande till skiljedom, skall skiljeavtal på yrkande av endera parten fastställas i den ordning, som föreskrives i artiklarna 53 och 54 av nämnda Haag-konvention.

ART. 2. The Contracting Parties undertake to submit to arbitration, in accordance with the ensuing provisions, all disputes other than those mentioned in Article 1, provided that they have first been subjected to the procedure of enquiry and conciliation provided for in the Convention of June 27, 1924, concerning the establishment of a Permanent Commission of Enquiry and Conciliation, and that it has not been possible to settle them by this means.

The Parties agree that the disputes referred to in the present Article shall be settled in accordance with the principles of law and equity.

ART. 3. Except where otherwise provided by agreement between the Parties, the arbitral tribunal to be established for the examination of any of the disputes referred to in Article 2 of the present Convention shall be constituted in conformity with the provisions of Part IV, Chapter II, of The Hague Convention of October 18, 1907, for the pacific settlement of international disputes.

ART. 4. Unless the Parties have agreed otherwise, the arbitration procedure shall be governed by the provisions of Part IV, Chapter III, of the Hague Convention of October 18, 1907, for the pacific settlement of international disputes, in so far as these provisions apply.

In case the special agreement provided for in the Hague Convention shall not have been signed within six months from the date on which one of the Parties has proposed to the other the submission of the dispute to arbitration, the said special agreement shall, at the request of either of the Parties, be drawn up in the manner prescribed in Articles 53 and 54 of the said Convention.

I de fall, då förevarande konvention hänvisar till bestämmelserna i Haagkonventionen, skola dessa bestämmelser tillämpas parterna emellan även för det fall, att båda eller endera frånträtt sistnämnda konvention.

ART. 5. Skiljedomstolen äger på endera partens yrkande angiva de förberedande åtgärder, som böra vidtagas till skyddande av denna parts rätt, försåvitt dessa åtgärder kunna vidtagas på administrativ väg.

ART. 6. Skiljedomen skall, när anledning därtill förefinnes, innehålla anvisning rörande sättet för dess verkställande, särskilt rörande de tidsfrister, som därvid skola iakttagas.

ART. 7. Beträffande frågor, som enligt lagstiftningen i det land, mot vilket yrkande framställs, skola avgöras av domstol, varmed här avses jämväl förvaltningsdomstol, kan vederbörande part icke påfordra, att det i art. 1 eller 2 avsedda förfarande kommer till användning, förrän genom sakens behandling vid domstol slutligt utslag avkunnats. I så fall skall tvistens hänskjutande till dom eller skiljedom ske senast ett år efter sådant utslag.

ART. 8. Har i dom eller skiljedom förklarats, att ett beslut eller en åtgärd av domstol eller annan myndighet i ena staten helt eller delvis står i strid med folkkrätten, och kunna enligt denna stats författning följderna av beslutet eller åtgärden icke helt eller delvis undanröjas, så äro parterna ense om att den förfördelade parten i domen eller skiljedomsutslaget må tiller-

In cases in which the present Convention refers to provisions of The Hague Convention, the said provisions shall be applicable between the Parties even if The Hague Convention has ceased to be binding on the two Parties or on either of them.

ART. 5. The arbitral tribunal may at the request of either of the Parties indicate the provisional measures to be taken in order to safeguard the rights of that Party, provided, however, that such measures can be taken by administrative action.

ART. 6. The arbitral award shall, when circumstances require, specify the manner in which it is to be carried out, especially as regards the time limits to be observed.

ART. 7. With regard to questions which, under the laws of the country against which an application is made, are within the competence of the courts, including the administrative courts, the Party concerned may not demand the application of the procedure laid down in Article 1 or in Article 2 until a final judgment has been given by the competent court. In such a case the dispute must be sent for adjudication by judicial or arbitral procedure within one year from the date of the final judgment.

ART. 8. If the judicial decision or the arbitral award declares that any ruling or order of a judicial or other authority of either of the two States is wholly or in part contrary to international law, and if the constitutional law of that State does not permit, or only partially permits, the consequences of the said ruling or order to be annulled, the Parties agree that the Party

kännas lämplig gottgörelse på annat sätt.

ART. 9. De fördragsslutande parterna förbinda sig att under pågående domseller skiljedomsförfarande i möjligaste mån undvika varje åtgärd, som kan motverka domens eller skiljedomens verkställande.

Parterna skola efter tro och heder ställa sig domen eller skiljedomen till efterrättelse.

ART. 10. Tvister, som må uppstå mellan parterna angående tolkningen eller utförandet av dom eller skiljedom, skola, därest ej annorlunda bestämts, underkastas avgörande av den domstol, som avkunnat domen eller skiljedomen.

ART. 11. Denna konvention skall ratificeras, för Sveriges del av Hans Majestät Konungen av Sverige under förutsättning av svenska riksdagens bifall, och för Danmarks del av Hans Majestät Konungen av Danmark och Island under förutsättning av danska riksdagens bifall. Ratifikationerna skola utväxlas i Köpenhamn.

ART. 12. Denna konvention träder i kraft å dagen för ratifikationernas utväxlande och ersätter därvid i förhållandet mellan Sverige och Danmark skiljedomskonventionen den 17 juli 1908. Den gäller för en tid av tjugo år, räknat från förstnämnda dag. Därest den ej senast två år före utgången av nämnda tidrymd blivit uppsagd, skall den gälla för ytterligare tjugo år, och skall den allt framgent anses förlängd för

injured by the judicial decision or arbitral award shall be granted suitable compensation of another kind.<sup>1</sup>

ART. 9. The Contracting Parties undertake to refrain as far as possible during the course of the judicial or arbitral procedure from any action likely to have a prejudicial effect on the execution of the judicial decision or arbitral award.

The Parties shall conform in good faith to the judicial decision or arbitral award.

ART. 10. Any disputes arising between the Parties regarding the interpretation or execution of a judicial decision or arbitral award shall, in the absence of an agreement to the contrary, be submitted for settlement to the tribunal which rendered the decision.

ART. 11. The present Convention shall be ratified, in the case of Denmark, by His Majesty the King of Denmark and Iceland, with the approval of the Danish Rigsdag, and in the case of Sweden by His Majesty the King of Sweden, with the approval of the Swedish Riksdag. The instruments of ratification shall be exchanged at Copenhagen.

ART. 12. The present Convention shall come into force on the date of the exchange of the instruments of ratification and shall, as regards the relations between Sweden and Denmark, supersede the Arbitration Convention of July 17, 1908. It shall be valid for twenty years from the aforesaid date. Unless it is denounced at least two years before the expiration of that period, it shall remain in force for a further period of twenty years and shall

<sup>1</sup> With this article and the corresponding articles of Nos 51, 55, and 57, cf. No. 59, Art. 8, and Annex IV, Art. 32.

tidrymder av 20 år, om den icke minst två år före utgången av närmast föregående tjuugoårsperiod blivit uppsagd.

Tvist, som vid utlöpanDET av konventionens giltighetstid är föremål för doms- eller skiljedomsförfarande på grund av denna konvention, skall slutbehandlas i enlighet med konventionens bestämmelser.

Till bekräftelse härav hava de befullmäktigade ombuden undertecknat detta avtal och försett det med sina sigill.

Som skedde i två exemplar i Stockholm de 14 januari 1926.

Östen Undén  
Erik Scavenius

thereafter be considered as prolonged for successive periods of twenty years unless it has been denounced at least two years before the expiration of the preceding period.

If, at the time when the present Convention ceases to be valid, proceedings in respect of a dispute are pending before a judicial or arbitral tribunal in virtue of the present Convention, such dispute shall be finally disposed of in accordance with the provisions of the Convention.

In faith whereof the Plenipotentiaries have signed the present Convention and have affixed their seals thereto.

Done in duplicate at Stockholm on January 14, 1926.

Östen Undén  
Erik Scavenius

#### PROTOCOL OF SIGNATURE

I samband med undertecknandet denna dag av en konvention mellan Sverige och Danmark angående fredligt avgörande av tvister hava undertecknade, därtill behörigen befullmäktigade, överenskommit, att konventionen av den 27 juni 1924 angående upprättandet av en fast undersöknings- och förlikningsnämnd skall, oavsett bestämmelserna i sistnämnda konventions artikel 18, äga giltighet så länge som den i dag undertecknade konventionen angående fredligt avgörande av tvister förbliver gällande.

Till bekräftelse härav hava de befullmäktigade ombuden undertecknat detta protokoll och försett det med sina sigill.

Som skedde i två exemplar i Stockholm den 14 januari 1926.

Östen Undén  
Erik Scavenius

When proceeding, on this day, to sign a Convention between Sweden and Denmark for the pacific settlement of disputes, the undersigned, being in possession of the necessary full powers, have agreed that the Convention of June 27, 1924, concerning the establishment of a Permanent Commission of Enquiry and Conciliation, shall remain in force, notwithstanding the provisions of Article 18 of the said Convention, so long as the Convention for the pacific settlement of disputes, signed on this day, shall remain valid.

In faith whereof the Plenipotentiaries have signed the present Protocol and have thereto affixed their seals.

Done in duplicate at Stockholm on January 14, 1926.

Östen Undén  
Erik Scavenius

## No. 55

DENMARK-NORWAY: TREATY OF CONCILIATION  
AND ARBITRATION

Signed at Copenhagen January 15, 1926; ratifications exchanged March 9, 1927.

Original text communicated by the Legation of Denmark at Washington, D. C.;<sup>1</sup> English translation from League of Nations, *Treaty Series*, LX, 321-327.

(Translation)

Hans Majestet Norges Konge og Hans Majestet Kongen av Danmark og Island, som er besjelet av ønsket om å fremme bestrebelsene for avgjørelse av mellempfolkelige tvister på fredelig måte, er i dette øiemed blitt enige om, i tilslutning til den konvensjon angående oprettelse av en fast undersøkelses- og forliksnevnd som blev inngått mellem Norge og Danmark den 27. juni 1924, å avslutte en overenskomst angående fredelig avgjørelse av tvister, og har som sine befullmektigede ved avsluttelsen av en sådan overenskomst opnevnt:

Hans Majestet Norges Konge:

Hans Majestets overordentlige sendemann og befullmektigede minister i Kjöbenhavn Emil Huitfeldt, og

Hans Majestet Kongen av Danmark og Island:

Hans Majestets utenriksminister Carl Poul Oscar Greve Moltke,

hvilke, behørig befullmektigede, er kommet overens om følgende bestemmelser:

ARTIKKEL 1. Rettstvister som måtte opstå mellem Norge og Danmark og som kan henføres til nogen av de slags tvister som er omhandlet i art. 36, 2. ledd i vedtektene for den faste domstol for mellempfolkelig rettspleie, skal, såfremt de ikke

His Majesty the King of Denmark and Iceland, and His Majesty the King of Norway, being desirous of promoting efforts for the pacific settlement of international disputes have agreed for this purpose to supplement the Convention concerning the establishment of a Permanent Commission of Enquiry and Conciliation, concluded between Denmark and Norway on June 27th, 1924, by a Convention for the pacific settlement of disputes, and have appointed as their Plenipotentiaries:

His Majesty the King of Denmark and Iceland:

Count Carl Poul Oscar Moltke, His Minister for Foreign Affairs;

His Majesty the King of Norway:

M. Emil Huitfeldt, His Envoy Extraordinary and Minister Plenipotentiary at Copenhagen;

Who, being duly authorised for the purpose, have agreed upon the following provisions:

ARTICLE 1. Any legal dispute arising between Denmark and Norway which falls within one of the categories specified in Article 36, paragraph 2, of the Statute of the Permanent Court of International Justice, and which it has not been

<sup>1</sup> See also League of Nations, *Treaty Series*, LX, 312. The Danish text is also authentic.



har kunnet løses på diplomatisk vei, henskytes til avgjørelse av den nevnte domstol overensstemmende med forskriftene i de nevnte vedtekter. Tvister med hensyn til hvilke der mellom de to land gjelder særlige avtaler om doms- eller voldgiftsbehandling, skal behandles efter bestemmelsene i disse avtaler.

Meningsforskjell angående fortolkningen av nærværende overenskomst skal avgjøres av den faste domstol for mellomfolkelig rettspleie.

ART. 2. De kontraherende parter forplikter sig til å henskyte til voldgiftsbehandling overensstemmende med de følgende bestemmelser alle andre enn de i artikkel 1 nevnte tvister, dog først efter at de har været underkastet den undersøkelses- og forliksbehandling som er omhandlet i konvensjonen av 27. juni 1924 angående opprettelse av en fast undersøkelses- og forliksnevnd, uten der igjennem å ha opnådd løsning.

Partene er enige om, at de tvister, som omhandles i nærværende artikkel, skal avgjøres efter grunnsetningene for rett og billighet.

ART. 3. Forsåvidt partene ikke treffer annen overenskomst, skal voldgiftsretten til behandling av tvist efter artikkel 2 i nærværende overenskomst nedsettes i overensstemmelse med bestemmelsene i tittel IV, kap. II i Haagkonvensjonen av 18. oktober 1907 angående avgjørelse av mellomfolkelige tvister på fredelig måte.

ART. 4. I den utstrekning partene ikke treffer annen bestemmelse angående voldgiftsbehandlingen, skal bestemmelsene i tittel

possible to settle by diplomacy, shall be submitted for judgment to the said Court in accordance with the provisions of the said Statute. Disputes in respect of which there are special Conventions in force between the Contracting Parties providing for judicial or arbitral procedure, shall be dealt with in accordance with the terms of such agreements.

Any divergence of views regarding the interpretation of the present Convention shall be settled by the Permanent Court of International Justice.

ART. 2. The Contracting Parties undertake to submit to arbitration, in accordance with the ensuing provisions, all disputes other than those mentioned in Article 1, provided that they have first been subjected to the procedure of enquiry and conciliation provided for in the Convention of June 27, 1924, concerning the establishment of a Permanent Commission of Enquiry and Conciliation, and that it has not been possible to settle them by this means.

The Parties agree that the disputes referred to in the present Article shall be settled in accordance with the principles of law and equity.

ART. 3. Except where otherwise provided by agreement between the Parties, an arbitral tribunal to deal with disputes under Article 2 of the present Convention shall be constituted in conformity with the provisions of Title IV, Chapter II of The Hague Convention of October 18, 1907, for the pacific settlement of international disputes.

ART. 4. Unless the Parties have agreed otherwise, the arbitration procedure shall be governed by the provisions of Title IV, Chapter III,

IV, kap. III i Haagkonvensjonen av 18. oktober 1907 angående avgjørelse av mellomfolkelige tvister på fredelig måte komme til anvendelse.

Hvis en sådan voldgiftsavtale som er omhandlet i den nevnte Haagkonvensjon ikke er undertegnet innen seks måneder etterat den ene part overfor den annen part har fremført anmodning om at tvisten henskytes til voldgift, skal voldgiftsavtalen på anmodning av en av partene fastsettes på den måte som er foreskrevet i artiklene 53 og 54 i den nevnte Haagkonvensjon.

I de tilfelle hvor nærværende overenskomst henviser til bestemmelsene i Haagkonvensjonen, skal disse bestemmelser få anvendelse mellom partene også i tilfelle av at begge parter eller en av dem har fratrådt den sistnevnte konvensjon.

ART. 5. Voldgiftsretten skal på begjæring av en av partene angi de foreløbige foranstaltninger, som bør treffes for å beskytte denne parts rettsstilling, forsåvidt disse foranstaltninger kan treffes på administrativ vei.

ART. 6. Voldgiftskjennelsen skal, når der finnes anledning til det, inneholde anvisning på hvorledes den skal fullbyrdes, særlig med hensyn til de tidsfrister, som skal iakttas.

ART. 7. Hvad angår spørsmål som, i henhold til lovgivningen i det land overfor hvilket krav fremsettes, skal avgjøres av en domstol, hvorved i denne forbindelse også forstås forvaltningsdomstol, kan vedkommende part ikke forlange at den i artikkel 1 eller 2 omhandlede fremgangsmåte får anvendelse, før endelig avgjørelse er truffet gjennom sakens behandling ved

of The Hague Convention of October 18, 1907, for the pacific settlement of international disputes.

In case the arbitration agreement provided for in The Hague Convention shall not have been signed within six months from the date on which one of the Parties has proposed to the other the submission of the dispute to arbitration, the said arbitration agreement shall, at the request of either of the Parties, be drawn up in the manner prescribed in Articles 53 and 54 of the said Hague Convention.

In cases in which the present Convention refers to provisions of The Hague Convention, the said provisions shall be applicable between the Parties even if The Hague Convention has ceased to be binding on the two Parties or on either of them.

ART. 5. The arbitral tribunal may, at the request of either of the Parties, indicate the provisional measures to be taken in order to safeguard the rights of that Party, provided, however, that such measures can be taken by administrative action.

ART. 6. The arbitral award shall, when circumstances require, specify the manner in which it is to be carried out, especially as regards the time limits to be observed.

ART. 7. With regard to questions which, under the laws of the country against which an application is made, are within the competence of the courts, which term must in this case be understood to include the administrative courts, the Party concerned may not demand the application of the procedure laid down in Article 1 or in Article 2 until a final judgment has

domstolen. I så fall skal tvistens henskytelse til dom eller voldgift i henhold til nevnte art. 1 eller 2 skje senest et år efter en sådan avgjørelse.

ART. 8. Dersom det i en dom eller voldgiftskjennelse erklæres at en beslutning eller en forföining truffet av en domstol eller annen myndighet i den ene stat helt eller delvis er i strid med folkeretten, og kan ifölge denne stats forfatning fölgene av beslutningen eller forföiningen ikke helt eller delvis fjernes, er partene enige om at der ved dommen eller voldgiftskjennelsen kan tilkjennes den forurettede part passende godtgjörelse på annen måte.

ART. 9. De kontraherende parter forplikter sig til under pågående doms- eller voldgiftsbehandling i størst mulig utstrekning å undgå enhver foranstaltning som kan motvirke fullbyrdelsen av dommen eller voldgiftskjennelsen.

Partene skal på tro og love rette sig efter dommen eller voldgiftskjennelsen.

ART. 10. Tvister som måtte opstå mellom partene angående fortolkningen eller fullbyrdelsen av dommen eller voldgiftskjennelsen skal, i mangel av annen bestemmelse, avgjøres av den rett som har avsagt dommen eller voldgiftskjennelsen.

ART. 11. Denne overenskomst skal ratifiseres. Ratifikasjonene skal utveksles i Oslo.

ART. 12. Denne overenskomst trer i kraft den dag ratifikasjonene blir utvekslet og avløser i forholdet mellom Norge og Danmark ved sin ikrafttreden voldgiftskonvensjonen

been given as a result of judicial proceedings. In such a case the dispute must be sent for adjudication by judicial or arbitral procedure within one year from the date of the final judgment.

ART. 8. If the judicial decision or the arbitral award declares that any ruling or order of a judicial or other authority of either of the two States is wholly or in part contrary to international law, and if the constitutional law of that State does not permit, or only partially permits, the consequences of the said ruling or order to be annulled, the Parties agree that the Party injured by the judicial decision or arbitral award shall be granted suitable compensation of another kind.

ART. 9. The Contracting Parties undertake to refrain as far as possible during the course of the judicial or arbitral procedure from any action likely to have a prejudicial effect on the execution of the judicial decision or arbitral award.

The Parties shall conform in good faith to the judicial decision or arbitral award.

ART. 10. Any disputes arising between the Parties regarding the interpretation or execution of a judicial decision or arbitral award shall, in the absence of an agreement to the contrary, be submitted for settlement to the tribunal which gave the decision or award.

ART. 11. The present Convention shall be ratified. The instruments of ratification shall be exchanged at Oslo.

ART. 12. The present Convention shall come into force on the date of the exchange of the instruments of ratification and shall, as regards the relations between Den-

av 8. oktober 1908. Den gjelder for en tid av tyve år fra sin ikrafttreden. Hvis den ikke blir opsagt senest to år før utløpet av dette tidsrum, skal den gjelde for ytterligere tyve år, og den skal fremdeles anses forlenget for perioder på tyve år, hvis den ikke blir opsagt minst to år før utløpet av den nærmest foregående tyveårsperiode.

Twist som ved utløpet av overenskomstens gyldighetstid er gjenstand for domseller voldgiftsbehandling efter denne overenskomst, skal ferdigbehandles overensstemmende med dens bestemmelser.

Til bekreftelse herav har de befullmektigede undertegnet denne overenskomst og forsynt den med sine segl.

Utfærdiget i to eksemplarer i Kjøbenhavn, den 15. januar 1926.

Emil Huitfeldt  
C. Moltke

mark and Norway, supersede the Arbitration Convention of October 8, 1908, when it comes into force. It shall be valid for twenty years from the aforesaid date. Unless it is denounced at least two years before the expiration of that period, it shall remain in force for a further period of twenty years and shall thereafter be considered as prolonged for successive periods of twenty years unless it has been denounced at least two years before the expiration of the preceding period.

If, at the time when the present Convention ceases to be valid, proceedings in respect of a dispute are pending before a judicial or arbitral tribunal in virtue of the present Convention, such dispute shall be disposed of in accordance with the provision of the Convention.

In faith whereof the Plenipotentiaries have signed the present Convention and have affixed their seals thereto.

Done in duplicate at Copenhagen, the fifteenth day of January, One thousand nine hundred and twenty-six.

C. Moltke  
Emil Huitfeldt

#### PROTOCOL OF SIGNATURE

I forbindelse med undertegning idag av en overenskomst mellem Norge og Danmark angående fredelig avgjørelse av tvister er de undertegnede, behørig befullmektigede, kommet overens om at konvensjonen av 27. juni 1924 angående opprettelse av en fast undersøkelses- og forliksnevnd, uansett bestemmelsene i sistnevnte konvensjons artikkel 18, skal gjelde sålenge den idag undertegnede overenskomst angående fredelig avgjørelse av tvister er i kraft.

When proceeding on this day to sign a Convention between Denmark and Norway for the pacific settlement of disputes, the undersigned, being duly authorised for the purpose, have agreed that the Convention of June 27, 1924, concerning the establishment of a Permanent Commission of Enquiry and Conciliation shall remain in force, notwithstanding the provisions of Article 18 of the said Convention, so long as the Convention for the pacific settlement of disputes, signed on this day, shall remain valid.

Man er videre enig om at ovennevnte idag undertegnede overenskomst også skal anvendes i det tilfælde at en opstått tvist har sin grunn i kjensgjerninger, som er opstått för overenskomstens avslutning.

Til bekræftelse herav har de befulmægtigede undertegnet denne protokol og forsynt den med sine segl.

Utdraget i to eksemplarer i Kjöbenhavn, den 15. januar 1926.

Emil Huitfeldt  
C. Moltke

It is further agreed that the above Convention, signed on this day shall also apply, if necessary, to cases where a dispute arises out of occurrences which took place before the conclusion of the present Convention.

In faith whereof the Plenipotentiaries have signed the present Protocol and have thereto affixed their seals.

Done in duplicate at Copenhagen on January 15, 1926.

C. Moltke  
Emil Huitfeldt

## No. 56

### FINLAND-SWEDEN: TREATY OF CONCILIATION AND ARBITRATION

Signed at Helsingfors January 29, 1926; ratifications exchanged May 28, 1926.

Original text from Finland, *Överenskommelser med främmande makter*, 1926, No. 12;  
English translation from League of Nations, *Treaty Series*, XI, IX, 375-378.

#### (Translation)

Le Président de la République de Finlande et Sa Majesté le Roi de Suède, animés du désir de favoriser les efforts tendant au règlement par les voies pacifiques des différends internationaux, sont convenus à cet effet de conclure en complément de la Convention relative à l'institution d'une Commission permanente d'enquête et de conciliation, conclue par les deux Etats le 27 juin 1924, une Convention pour le règlement pacifique des différends, et ont nommé pour Leurs Plénipotentiaires, savoir:

Le Président de la République de Finlande M. le D<sup>r</sup> E. N. Setälä, Ministre des Affaires Etrangères, et Sa Majesté le Roi de Suède M. le Baron C. F. H. Hamilton af

His Majesty the King of Sweden and the President of the Finnish Republic, being desirous of encouraging efforts towards the settlement of international disputes by pacific means, agreed for this purpose to supplement the Convention concerning the Establishment of a Permanent Commission of Enquiry and Conciliation concluded by the two States on June 27, 1924, by a Convention for the Pacific Settlement of Disputes, and appointed as their Plenipotentiaries:

His Majesty the King of Sweden: Baron C. F. H. Hamilton af Hageby, His Majesty's Envoy Extraordinary and Minister Plenipotentiary at Helsingfors;

<sup>1</sup> See also League of Nations, *Treaty Series*, XI, IX, 368. The treaty is drafted in French, Finnish, and Swedish. The French text is authoritative.

Hageby, Son Envoyé Extraordinaire et Ministre Plénipotentiaire à Helsinki (Helsingfors),

lesquels, dûment autorisés à cet effet, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. S'il s'élève entre les Parties Contractantes un différend d'ordre juridique rentrant dans l'une des catégories spécifiées à l'article 36, alinéa 2, du statut de la Cour permanente de Justice internationale, et n'ayant pu être réglé par la voie diplomatique, il sera soumis pour jugement à la dite Cour, conformément aux dispositions du susdit statut.

Le différend pourra toutefois être soumis, préalablement, d'un commun accord entre les Parties, à la procédure d'enquête et de conciliation prévue dans la Convention du 27 juin 1924, concernant l'institution d'une Commission permanente d'enquête et de conciliation.

Les différends pour le règlement desquels les Parties Contractantes se seront engagées, par d'autres conventions en vigueur entre elles, à recourir à une procédure judiciaire ou arbitrale spéciale, seront traités conformément aux dispositions des dits arrangements.

Toute divergence de vues relative à l'interprétation et à l'application de la présente Convention sera réglée par la Cour permanente de Justice internationale.

ART. 2. Les Parties Contractantes s'engagent à soumettre à la procédure d'arbitrage, conformément aux dispositions ci-après, tous différends autres que ceux visés à l'article premier, toutefois seulement après qu'ils auront été soumis, sans avoir pu être réglés par cette voie, à la procédure d'enquête et de conciliation prévue dans la Con-

The President of the Finnish Republic:

Dr. E. N. Setälä, Minister for Foreign Affairs;

Who, being duly authorised for this purpose, have agreed upon the following provisions:

ARTICLE 1. If there arises between the Contracting Parties a legal dispute which comes within one of the categories specified in paragraph 2 of Article 36 of the Statute of the Permanent Court of International Justice and which it has not been possible to settle by diplomacy, such dispute shall be submitted for judgment to the said Court under the terms of the above-mentioned Statute.

By agreement between the Parties, however, the dispute may first be submitted to the procedure of enquiry and conciliation laid down in the Convention of June 27, 1924, concerning the establishment of a permanent Commission of enquiry and conciliation.

Disputes for whose settlement the Contracting Parties shall have undertaken by other conventions in force between them to resort to special judicial or arbitral procedure, shall be dealt with in accordance with the provisions of such arrangements.

Any divergence of views regarding the interpretation and application of the present Convention shall be settled by the Permanent Court of International Justice.

ART. 2. The Contracting Parties undertake to submit to a procedure of arbitration, in accordance with the ensuing provisions, all disputes other than those mentioned in Article 1, provided, however, that they shall first have been submitted to the procedure of enquiry and conciliation laid down in the Convention of June 27, 1924, concern-

vention du 27 juin 1924, concernant l'institution d'une Commission permanente d'enquête et de conciliation.

Les Parties conviennent que les différends visés au présent article devront être réglés suivant les principes du droit et de l'équité.

ART. 3. Sauf accord contraire des Parties, le tribunal arbitral à établir pour l'examen d'un des différends visés à l'article 2 de la présente Convention, sera constitué conformément aux dispositions du titre IV, chapitre II de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 4. En tant que les Parties ne seront pas convenues du contraire, relativement à la procédure d'arbitrage, les dispositions du titre IV, chapitre III de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux seront, dans la mesure où elles s'y prêtent, applicables à la dite procédure.

Si, dans un délai de six mois à dater du jour où l'une des Parties aura adressé à l'autre une demande tendant à soumettre le différend à l'arbitrage, le compromis visé par la dite Convention de La Haye n'a pas été signé, il sera établi, à la demande de l'une des Parties, par le tribunal arbitral.

Dans les cas où la présente Convention renvoie aux dispositions de la Convention de La Haye, les dites dispositions seront applicables entre les Parties lors même que cette dernière Convention aurait cessé d'être valable pour les deux Parties ou pour l'une d'elles.

ing the establishment of a permanent Commission of enquiry and conciliation, and that it has not been possible to settle them by these means.

The Parties agree that the disputes referred to in the present Article shall be settled in accordance with the principles of law and equity.

ART. 3. In the absence of a contrary agreement between the Parties, the arbitral tribunal to be established for the examination of any of the disputes referred to in Article 2 of the present Convention, shall be constituted in conformity with provisions of Part IV, Chapter II, of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 4. Unless the Parties shall have agreed otherwise, the procedure of arbitration shall be governed by the provisions of Part IV, Chapter III, of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes, in so far as these provisions apply.

If the special agreement (*compromis*) referred to in the Hague Convention shall not have been signed within six months from the date on which one of the Parties shall have proposed to the other the submission of a dispute to arbitration, it shall, at the request of one of the Parties, be fixed by the arbitral tribunal.

In cases where the present Convention refers to the provisions of the Hague Convention, these provisions shall be applicable between the Parties even when the Hague Convention shall have ceased to be valid for the two Parties or for one of them.

ART. 5. A la demande de l'une des Parties, le tribunal arbitral pourra indiquer les mesures provisoires à prendre en vue de sauvegarder les droits de cette Partie, pourvu que ces mesures puissent être prises par la voie administrative.

ART. 6. La sentence arbitrale formulera, s'il y a lieu, des indications relatives au mode d'exécution de la dite sentence et notamment aux délais à observer à cet égard.

ART. 7. En ce qui concerne les questions qui, d'après la législation du pays contre lequel une demande est formée, relèvent de la compétence des tribunaux, y compris les tribunaux administratifs, la Partie intéressée ne pourra pas exiger l'application de la procédure prévue à l'article 1<sup>er</sup> ou à l'article 2 avant qu'un jugement définitif ait été rendu par le tribunal compétent. Dans ce cas, le renvoi du différend à la procédure judiciaire ou arbitrale devra avoir lieu dans un délai d'une année au plus tard à compter de la date du jugement définitif.

ART. 8. Si la sentence judiciaire ou arbitrale déclarait qu'une décision ou une mesure prise par une instance judiciaire ou toute autre autorité de l'un des deux Etats se trouve entièrement ou partiellement en opposition avec le droit international, et si le droit constitutionnel du dit Etat ne permet pas ou ne permet qu'en partie d'effacer les conséquences de cette décision ou de cette mesure, les Parties conviennent qu'il devra être accordé à la Partie lésée par la sentence judiciaire ou arbitrale une satisfaction équitable d'un autre ordre.

ART. 9. Les Parties Contractantes s'engagent à s'abstenir, autant que possible, durant le cours

ART. 5. At the request of one of the Parties, the arbitral tribunal may indicate provisional measures to be taken in order to safeguard the rights of that Party, provided that these measures may be taken by administrative means.

ART. 6. The arbitration award shall, if necessary, specify the manner in which it is to be carried out, especially as regards the time-limits to be observed.

ART. 7. With regard to questions which, according to the laws of the country to which application is made, come within the competence of the courts, including the administrative courts, the Party concerned may not demand the application of the procedure laid down in Article 1 or Article 2 until a final judgment has been given by the competent court. In this case, the dispute must be referred to judicial or arbitral procedure within one year from the date of the final judgment.

ART. 8. If the judicial sentence or arbitral award declares that a decision or measure of a court of law or other authority of any of the two States is wholly or in part contrary to international law, and if the constitutional law of that State does not permit, or only partially permits, the consequences of the decision or measure in question to be annulled, the Parties agree that the judicial sentence or arbitral award shall award the injured Party equitable satisfaction of another kind.

ART. 9. The Contracting Parties undertake during the course of the judicial or arbitral procedure to



de la procédure judiciaire ou arbitrale, de toute mesure pouvant avoir une répercussion préjudiciable à l'exécution de la sentence judiciaire ou arbitrale.

Les Parties devront se conformer de bonne foi à la sentence judiciaire ou arbitrale.

ART. 10. Les contestations qui pourraient surgir entre les Parties concernant l'interprétation ou l'exécution d'une sentence judiciaire ou arbitrale seront soumises, à moins qu'il n'en ait été convenu autrement, à la décision du tribunal qui a rendu la sentence.

ART. 11. La présente Convention est rédigée en langues finnoise, suédoise et française. Dans toutes les questions relatives à son interprétation, c'est le texte français qui fera foi.

ART. 12. La présente Convention sera ratifiée, en ce qui concerne la Suède par Sa Majesté le Roi de Suède avec l'approbation du Riksdag suédois. Les ratifications seront échangées à Stockholm.

ART. 13. La présente Convention entrera en vigueur le jour de l'échange des ratifications. Elle aura une durée de vingt années, à compter du dit jour. Si elle n'est pas dénoncée deux ans au plus tard avant l'expiration de ce délai, elle demeurera en vigueur pendant une nouvelle période de vingt années et sera par la suite aussi censée prolongée chaque fois pour une période de vingt années, si elle n'est pas dénoncée deux ans au moins avant l'expiration de la dernière période.

Si, à l'expiration de la validité de la présente Convention, un différend est pendant devant une instance judiciaire ou un tribunal arbitral, en vertu de cette Conven-

refrain as far as possible from any action liable to have a prejudicial effect on the execution of the judicial sentence or arbitration award.

The Parties shall conform in good faith to the judicial sentence or arbitration award.

ART. 10. Any disputes which may arise between the Parties regarding the interpretation or execution of a judicial sentence or arbitration award shall, in the absence of an agreement to the contrary, be submitted to the decision of the tribunal which pronounced the sentence or award.

ART. 11. The present Convention is drawn up in Swedish, Finnish and French. In all questions of interpretation, the French shall be the authentic text.

ART. 12. The present Convention shall be ratified, as regards Sweden, by His Majesty the King of Sweden with the approval of the Swedish Riksdag.

The instruments of ratification shall be exchanged at Stockholm.

ART. 13. The present Convention shall enter into force on the day of the exchange of the instruments of ratification. It shall be valid for twenty years from that day. Unless it is denounced at least two years before the expiration of that period, it shall remain in force for a further period of twenty years and shall then be considered to be each time extended for a period of twenty years unless denounced at least two years before the expiration of the previous period.

If on the expiration of the validity of the present Convention, a dispute is pending before a judicial court or arbitral tribunal in virtue of the present Convention, the

tion, la procédure suivra son cours conformément aux dispositions de la Convention.

En foi de quoi, les Plénipotentiaires ont signé la présente Convention et l'ont munie de leurs cachets.

Fait en double exemplaire à Helsinki (Helsingfors), le 29 janvier 1926.

E. N. Setälä  
Hamilton

procedure shall follow its course in accordance with the provisions of the Convention.

In faith whereof, the Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done in duplicate at Helsinki (Helsingfors) on January 29, 1926.

Hamilton  
E. N. Setälä

#### PROTOCOL OF SIGNATURE

Au moment de procéder en date de ce jour à la signature d'une Convention entre la Finlande et la Suède pour le règlement pacifique des différends, les soussignés, dûment autorisés à cet effet, conviennent que la Convention du 27 juin 1924 concernant l'institution d'une Commission permanente d'enquête et de conciliation restera en vigueur nonobstant les dispositions de l'article 18 de cette Convention, aussi longtemps que la Convention pour le règlement pacifique des différends signée en date de ce jour portera ses effets.

En foi de quoi les Plénipotentiaires ont signé le présent Protocole qu'ils ont revêtu de leurs cachets.

Fait en double exemplaire à Helsinki (Helsingfors), le 29 janvier 1926.

E. N. Setälä  
Hamilton

When signing this day a Convention between Sweden and Finland for the Pacific Settlement of Disputes, the undersigned, being duly authorised for this purpose, agree that the Convention of June 27, 1924, concerning the establishment of a permanent Commission of Enquiry and Conciliation shall remain in force, notwithstanding the provisions of Article 18 of that Convention, for as long as the Convention for the Pacific Settlement of Disputes signed this day shall still be valid.

In faith whereof, the Plenipotentiaries have signed the present Protocol and have thereto affixed their seals.

Done in duplicate at Helsinki (Helsingfors), on January 29, 1926.

Hamilton  
E. N. Setälä

## No. 57

DENMARK-FINLAND: TREATY OF CONCILIATION  
AND ARBITRATION

Signed at Helsingfors January 30, 1926; ratifications exchanged July 26, 1926.

Original text from Finland, *Överenskommelser med främmande makter*, 1926, No. 22;<sup>1</sup>  
English translation from League of Nations, *Treaty Series*, LI, 378-380.

(Translation)

Le Président de la République de Finlande et Sa Majesté le Roi de Danemark et d'Islande, animés du désir de favoriser les efforts tendant au règlement par les voies pacifiques des différends internationaux, sont convenus à cet effet de conclure en complément de la Convention relative à l'institution d'une Commission permanente d'enquête et de conciliation, conclue par la Finlande et le Danemark le 27 juin 1924, une Convention pour le règlement pacifique des différends, et ont nommé pour Leurs Plénipotentiaires, savoir:

Le Président de la République de Finlande: M. le Dr E. N. Setälä, Ministre des Affaires Étrangères, et

Sa Majesté le Roi de Danemark et d'Islande: M. le Chambellan Flemming de Lerche, Son Envoyé Extraordinaire et Ministre Plénipotentiaire à Helsinki (Helsingfors), lesquels, dûment autorisés à cet effet, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. S'il s'élève entre la Finlande et le Danemark un différend d'ordre juridique rentrant dans l'une des catégories spécifiées à l'article 36, alinéa 2, du statut de la Cour permanente de Justice in-

His Majesty the King of Denmark and Iceland and the President of the Finnish Republic, being desirous of encouraging efforts towards the settlement of international disputes by pacific means, have agreed for this purpose to supplement the Convention concerning the establishment of a Permanent Commission of Enquiry and Conciliation concluded between Denmark and Finland on June 27, 1924, by a Convention for the pacific settlement of disputes, and have appointed as their Plenipotentiaries:

His Majesty the King of Denmark and Iceland:

His Excellency M. Flemming de Lerche, His Envoy Extraordinary and Minister Plenipotentiary at Helsingfors;

The President of the Finnish Republic:

His Excellency Dr. E. N. Setälä, Minister for Foreign Affairs;

Who, being duly authorised for the purpose, have agreed upon the following provisions:

ARTICLE 1. In the event of there arising between Denmark and Finland a legal dispute falling within one of the categories specified in Article 36, paragraph 2, of the Statute of the Permanent Court of

<sup>1</sup> See also League of Nations, *Treaty Series*, LI, 368. The treaty is drafted in French, Finnish, Danish, and Swedish. The French text is authoritative.

ternationale, et n'ayant pu être réglé par la voie diplomatique, il sera soumis pour jugement à la dite Cour, conformément aux dispositions du susdit statut.

Le différend pourra toutefois être soumis, préalablement, d'un commun accord entre les Parties, à la procédure d'enquête et de conciliation prévue dans la Convention du 27 juin 1924, concernant l'institution d'une Commission permanente d'enquête et de conciliation.

Les différends pour le règlement desquels les Parties Contractantes se seront engagées, par d'autres conventions en vigueur entre elles, à recourir à une procédure judiciaire ou arbitrale spéciale, seront traités conformément aux dispositions des dits arrangements.

Toute divergence de vues relative à l'interprétation et à l'application de la présente Convention sera réglée par la Cour permanente de Justice internationale.

ART. 2. Les Parties Contractantes s'engagent à soumettre à la procédure d'arbitrage, conformément aux dispositions ci-après, tous différends autres que ceux visés à l'article premier, toutefois seulement après qu'ils auront été soumis, sans avoir pu être réglés par cette voie, à la procédure d'enquête et de conciliation prévue par la Convention du 27 juin 1924, concernant l'institution d'une Commission permanente d'enquête et de conciliation.

Les Parties conviennent que les différends visés au présent article devront être réglés suivant les principes du droit et de l'équité.

ART. 3. Sauf accord contraire des Parties, le tribunal arbitral à établir pour l'examen d'un des différends visés à l'article 2 de la pré-

International Justice which it is not possible to settle by diplomacy, such dispute shall be submitted for judgment to the said Court in accordance with the provisions of the said Statute.

The dispute may, however, by agreement between the Parties, be subjected first to the procedure of enquiry and conciliation provided for in the Convention of June 27, 1924, concerning the establishment of a Permanent Commission of Enquiry and Conciliation.

Disputes for the settlement of which the Contracting Parties have undertaken, by other conventions in force between them, to have recourse to a special judicial or arbitral procedure, shall be dealt with in accordance with the provisions of such agreements.

Any divergence of views regarding the interpretation and application of the present Convention shall be settled by the Permanent Court of International Justice.

ART. 2. The Contracting Parties undertake to submit to arbitration in accordance with the ensuing provisions all disputes other than those mentioned in Article 1, provided that they have first been subjected to the procedure of enquiry and conciliation provided for in the Convention of June 27, 1924, concerning the establishment of a Permanent Commission of Enquiry and Conciliation and that it has not been possible to settle them by this means.

The Parties agree that the disputes referred to in the present Article shall be settled in accordance with the principles of law and equity.

ART. 3. In the absence of an agreement to the contrary between the Parties, the arbitral tribunal to be established for the examination

sente Convention, sera constitué conformément aux dispositions du titre IV, chapitre II de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 4. En tant que les Parties ne seront pas convenues du contraire, relativement à la procédure d'arbitrage, les dispositions du titre IV, chapitre III de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux seront, dans la mesure où elles s'y prêtent, applicables à la dite procédure.

Si, dans un délai de six mois à dater du jour où l'une des Parties aura adressé à l'autre une demande tendant à soumettre le différend à l'arbitrage, le compromis visé par la dite Convention de La Haye n'a pas été signé, il sera établi, à la demande de l'une des Parties, par le tribunal arbitral.

Dans les cas où la présente Convention renvoie aux dispositions de la Convention de La Haye, les dites dispositions seront applicables entre les Parties lors même que cette dernière Convention aurait cessé d'être valable pour les deux Parties ou pour l'une d'elles.

ART. 5. A la demande de l'une des Parties, le tribunal arbitral pourra indiquer les mesures provisoires à prendre en vue de sauvegarder les droits de cette Partie, pourvu que ces mesures puissent être prises par la voie administrative.

ART. 6. La sentence arbitrale formulera, s'il y a lieu, des indications relatives au mode d'exécution de la dite sentence et notamment aux délais à observer à cet égard.

of any of the disputes referred to in Article 2 of the present Convention shall be constituted in conformity with the provisions of Part IV, Chapter II of The Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 4. Unless the Parties have agreed otherwise, the arbitration procedure shall be governed by the provisions of Part IV, Chapter III of The Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes, in so far as these provisions apply.

If the special agreement provided for in the Hague Convention is not signed within six months from the date on which one of the Parties has proposed to the other the submission of the dispute to arbitration, it shall at the request of either of the Parties be drawn up by the arbitral tribunal.

In cases in which the present Convention refers to the provisions of the Hague Convention, the said provisions shall be applicable between the Parties even if the Hague Convention has ceased to be binding on the two Parties or on either of them.

ART. 5. At the request of either of the Parties the arbitral tribunal may indicate the provisional measures to be taken in order to safeguard the rights of that Party, provided that these measures can be taken by administrative action.

ART. 6. The arbitral award shall, if necessary, specify the manner in which it is to be carried out, especially as regards the time limits to be observed.

ART. 7. En ce qui concerne les questions qui, d'après la législation du pays contre lequel une demande est formée, relèvent de la compétence des tribunaux, y compris les tribunaux administratifs, la Partie intéressée ne pourra pas exiger l'application de la procédure prévue à l'article 1<sup>er</sup> ou à l'article 2 avant qu'un jugement définitif ait été rendu par le tribunal compétent. Dans ce cas, le renvoi du différend à la procédure judiciaire ou arbitrale devra avoir lieu dans un délai d'une année au plus tard à compter de la date du jugement définitif.

ART. 8. Si la sentence judiciaire ou arbitrale déclarait qu'une décision ou une mesure prise par une instance judiciaire ou toute autre autorité de l'un des deux Etats se trouve entièrement ou partiellement en opposition avec le droit international, et si le droit constitutionnel du dit Etat ne permet pas ou ne permet qu'en partie d'effacer les conséquences de cette décision ou de cette mesure, les Parties conviennent qu'il devra être accordé à la Partie lésée par la sentence judiciaire ou arbitrale une satisfaction équitable d'un autre ordre.

ART. 9. Les Parties Contractantes s'engagent à s'abstenir, autant que possible, durant le cours de la procédure judiciaire ou arbitrale, de toute mesure pouvant avoir une répercussion préjudiciable à l'exécution de la sentence judiciaire ou arbitrale.

Les Parties devront se conformer de bonne foi à la sentence judiciaire ou arbitrale.

ART. 10. Les contestations qui pourraient surgir entre les Parties concernant l'interprétation ou l'exécution d'une sentence judiciaire ou arbitrale seront soumises, à moins

ART. 7. With regard to questions which, according to the laws of the country against which an application is made, are within the competence of the courts, including the administrative courts, the Party concerned may not demand the application of the procedure laid down in Article 1 or Article 2 until a final judgment has been given by the competent court. In this case the dispute must be referred to judicial or arbitral procedure within one year from the date of the final judgment.

ART. 8. If the judicial decision or arbitral award declares that any ruling or order of a judicial or other authority of either of the two States is wholly or in part contrary to international law, and if the constitutional law of that State does not permit, or only partially permits, the consequences of the said ruling or order to be annulled, the Parties agree that the Party injured by the judicial decision or arbitral award shall be granted suitable compensation of another kind.

ART. 9. The Contracting Parties undertake to refrain as far as possible, during the course of the judicial or arbitration procedure, from any action likely to have a prejudicial effect on the execution of the judicial decision or arbitral award.

The Parties shall conform in good faith to the judicial decision or arbitral award.

ART. 10. Any disputes which may arise between the Parties regarding the interpretation or execution of a judicial decision or arbitral award shall, in the absence of

qu'il n'en ait été convenu autrement, à la décision du tribunal qui a rendu la sentence.

an agreement to the contrary, be submitted for settlement to the tribunal which rendered the de-

ART. 11. La présente Convention est rédigée en langues finnoise, suédoise, danoise et française. Dans toutes les questions relatives à son interprétation, c'est le texte français qui fera foi.

ART. 11. The present Convention is drawn up in Danish, Finnish, Swedish and French. In all questions of interpretation, the French text shall be authentic.

ART. 12. La présente Convention sera ratifiée. Les ratifications seront échangées à Copenhague.

ART. 12. The present Convention shall be ratified. The instruments of ratification shall be exchanged at Copenhagen.

ART. 13. La présente Convention entrera en vigueur le jour de l'échange des ratifications. Elle aura une durée de vingt années, à compter du dit jour. Si elle n'est pas dénoncée deux ans au plus tard avant l'expiration de ce délai, elle demeurera en vigueur pendant une nouvelle période de vingt années et sera par la suite aussi censée prolongée chaque fois pour une période de vingt années, si elle n'est pas dénoncée deux ans au moins avant l'expiration de la dernière période.

ART. 13. The present Convention shall come into force on the day of the exchange of the instruments of ratification. It shall be valid for twenty years from that date. Unless it is denounced at least two years before the expiration of that period, it shall remain in force for a further period of twenty years and it shall likewise thereafter be considered to be extended each time for a period of twenty years unless it is denounced at least two years before the expiration of the previous period.

Si, à l'expiration de la validité de la présente Convention, un différend est pendant devant une instance judiciaire ou un tribunal arbitral, en vertu de cette Convention, la procédure suivra son cours conformément aux dispositions de la Convention.

If, at the expiration of the validity of the present Convention, a dispute is pending before a court or an arbitral tribunal in virtue of the present Convention, the procedure shall follow its course in accordance with the provisions of the Convention.

En foi de quoi, les Plénipotentiaires ont signé la présente Convention et l'ont munie de leurs cachets.

In faith whereof the Plenipotentiaries have signed the present Convention and have affixed their seals thereto.

Fait en double exemplaire à Helsinki (Helsingfors), le 30 janvier 1926.

Done in duplicate at Helsinki (Helsingfors), on January 30, 1926.

E. N. Setälä  
F. Lerche

F. de Lerche  
E. N. Setälä

## PROTOCOL OF SIGNATURE

Au moment de procéder en date de ce jour à la signature d'une Convention entre la Finlande et le Danemark pour le règlement pacifique des différends, les soussignés, dûment autorisés à cet effet, conviennent que la Convention du 27 juin 1924 concernant l'institution d'une Commission permanente d'enquête et de conciliation restera en vigueur, nonobstant les dispositions de l'article 18 de cette Convention, aussi longtemps que la Convention pour le règlement pacifique des différends signée en date de ce jour portera ses effets.

En foi de quoi les Plénipotentiaires ont signé le présent Protocole qu'ils ont revêtu de leurs cachets.

Fait en double exemplaire à Helsinki (Helsingfors), le 30 janvier 1926.

E. N. Setälä  
F. Lerche

On the occasion of signing this day a Convention between Denmark and Finland for the pacific settlement of disputes, the undersigned, being duly authorised for the purpose, agree that the Convention of June 27, 1924, concerning the establishment of a Permanent Commission of Enquiry and Conciliation shall remain in force, notwithstanding the provisions of Article 18 of that Convention, as long as the Convention for the pacific settlement of disputes signed this day is valid.

In faith whereof the Plenipotentiaries have signed the present Protocol and have affixed their seals thereto.

Done in duplicate at Helsinki (Helsingfors) on January 30, 1926.

F. de Lerche  
E. N. Setälä

## No. 58

RUMANIA-SWITZERLAND: TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Berne February 3, 1926; ratifications exchanged August 27, 1926.

Original text from Rumania, *Monitorul Oficial*, 1926, No. 207; <sup>1</sup> English translation from League of Nations, *Treaty Series*, LV, 93-101.

(Translation)

Sa Majesté le Roi de Roumanie et le Conseil Fédéral Suisse, animés du désir d'affirmer une fois de plus et resserrer les liens d'amitié traditionnelle qui unissent la Roumanie et la Suisse et de résoudre par voie de conciliation, de règlement judiciaire ou d'arbitrage les dif-

The Swiss Federal Council and His Majesty the King of Roumania, being desirous of reaffirming and strengthening the traditional bonds of friendship between Switzerland and Roumania and of deciding, by conciliation, by judicial settlement or by arbitration, any dispute

<sup>1</sup> See also League of Nations, *Treaty Series*, LV, 92.



férends qui viendraient à s'élever entre les deux Pays, ont résolu de conclure à cet effet un traité et ont nommé leurs Plénipotentiaires, savoir:

Sa Majesté le Roi de Roumanie:  
Monsieur Nicolas Petresco-Comnen, Envoyé extraordinaire et Ministre plénipotentiaire de Roumanie en Suisse,

Le Conseil Fédéral Suisse:

Monsieur Giuseppe Motta, Conseiller Fédéral, Chef du Département Politique Fédéral,

lesquels, après s'être fait connaître leurs pleins pouvoirs respectifs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Tous différends, de quelque nature qu'ils soient, qui viendraient à s'élever entre les deux Etats et ne pourraient être réglés par la voie diplomatique dans un délai raisonnable seront, avant toute procédure devant la Cour permanente de Justice internationale ou avant tout recours à l'arbitrage, soumis à fin de conciliation à une commission internationale permanente, dite Commission permanente de conciliation, constituée conformément au présent traité.

Toutefois, chacune des Parties contractantes demeurera libre de soustraire à l'application du présent traité tout litige qui toucherait directement ou indirectement à des questions en rapport avec leur intégrité territoriale ou leurs frontières actuelles.

Les Parties contractantes conserveront, d'autre part, la liberté de convenir qu'un litige déterminé sera réglé directement par la Cour permanente de Justice internationale ou par voie d'arbitrage, sans recours au préliminaire de conciliation.

which may arise between the two countries,

Have resolved to conclude a Treaty and with that object have appointed as their Plenipotentiaries:

The Swiss Federal Council:

M. Giuseppe Motta, Federal Councillor, Head of the Federal Political Department;

His Majesty the King of Roumania:

M. Nicolas Petresco Comnène, Envoy Extraordinary and Minister Plenipotentiary in Switzerland;

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1. All disputes of whatever nature which may arise between the two States and which it is not possible to settle through the diplomatic channel within a reasonable time, shall, before any proceedings are instituted before the Permanent Court of International Justice or before any recourse to arbitration, be submitted with a view to amicable settlement to a permanent international Commission, styled the Permanent Conciliation Commission, constituted in accordance with the present Treaty.

Either Party shall, however, remain free to withdraw from the application of the present Treaty any dispute which is directly or indirectly concerned with questions affecting its territorial integrity or its present frontiers.

The Contracting Parties may further agree that any individual dispute shall be settled by the Permanent Court of International Justice or by arbitration, without previous recourse to the procedure of conciliation.

ART. 2. S'il s'agit d'un différend qui, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux de celle-ci, le différend ne sera soumis à la procédure prévue par le présent traité qu'après jugement passé en force de chose jugée rendu par l'autorité judiciaire nationale compétente.

ART. 3. La Commission permanente de conciliation prévue à l'article premier sera composée de cinq membres, qui seront désignés comme il suit: Les parties contractantes nommeront, chacune, un commissaire choisi parmi leurs nationaux respectifs et désigneront, d'un commun accord, le trois autres commissaires par les ressortissants de tierces Puissances; ces trois commissaires devront être de nationalités différentes et, parmi eux, les Parties contractantes désigneront le Président de la Commission.

Les Commissaires sont nommés pour trois ans; leur mandat est renouvelable. Ils resteront en fonctions jusqu'à leur remplacement et, dans tous les cas, jusqu'à l'achèvement de leurs travaux en cours au moment de l'expiration de leur mandat.

Il sera pourvu, dans le plus bref délai, aux vacances qui viendraient à se produire, par suite de décès ou de démission, en suivant le mode fixé pour les nominations.

ART. 4. La commission permanente de conciliation sera constituée dans les trois mois qui suivront l'échange des ratifications du présent traité.

Si la nomination des commissaires à désigner en commun n'intervenait pas dans le dit délai ou, en cas de remplacement, dans les trois mois à compter de la vacance

ART. 2. When the subject of the dispute is one which, under the municipal legislation of either Party, is within the competence of the national Courts of that Party, the matter in dispute shall not be submitted to the procedure laid down in the present Treaty until a judgment with final effect has been given by the competent national judicial authority.

ART. 3. The Permanent Conciliation Commission provided for in Article 1, shall consist of five members, who shall be appointed as follows: The two Contracting Parties shall each nominate one commissioner from among their respective nationals, and they shall further appoint, by common agreement, three other commissioners from among the nationals of third Powers; these three commissioners must be of different nationalities and the Contracting Parties shall designate one of them as President of the Commission.

The members of the Commission shall be appointed for three years, and may be reappointed. They shall continue to hold office until they are replaced and, in any case, until the completion of any work in hand at the moment of the expiry of their mandate.

Any vacancies which may occur owing to death or resignation, shall be filled as soon as possible in the manner laid down for the nominations.

ART. 4. The Permanent Conciliation Commission shall be constituted within three months after the exchange of the ratifications of the present Treaty.

If the appointment of the members to be nominated by common agreement has not been made within the aforesaid period, or if a fresh appointment has not been

du siège, les désignations nécessaires seront effectuées, à la demande d'une seule des Parties, par le Président de la Cour permanente de Justice internationale ou, si celui-ci est ressortissant de l'un des Etats contractants, par le Vice-Président ou, si ce dernier se trouve dans le même cas, par le membre le plus âgé de la Cour.

ART. 5. La Commission permanente de conciliation sera saisie par voie de requête adressée au Président par les deux Parties agissant d'un commun accord ou, à défaut, par l'une ou l'autre des Parties.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à la Partie adverse.

ART. 6. La Commission permanente de conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra après examen de l'affaire, proposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

A la fin de ses travaux, la Commission dressera un procès-verbal constatant, suivant les cas, soit que les Parties se sont arrangées et, s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la Commission devront, à moins que les parties en conviennent différemment, être ter-

made within three months after the seat became vacant, the necessary nominations shall be made, at the request of either Party, by the President of the Permanent Court of International Justice, or, if the latter is a national of one of the Contracting States, by the Vice-President, or, if the latter is in the same situation, by the oldest member of the Court.

ART. 5. The Permanent Conciliation Commission shall be informed by means of a request addressed to the President by the two Parties acting in agreement or, in the absence of such agreement, by either of the Parties.

The request shall contain a short statement of the subject of the dispute, followed by an invitation to the Commission to take all necessary steps with a view to arriving at an amicable settlement.

If the request emanates from one Party only, it shall be notified forthwith to the other Party.

ART. 6. The task of the Permanent Conciliation Commission shall be to elucidate the subjects in dispute, and for this purpose to collect all necessary information by means of enquiry or otherwise, and to endeavour to bring the Parties to an agreement. It may, after examining the question, propose to the Parties the terms of settlement which it considers suitable, and may appoint a period within which they are to make their decision.

At the close of its labours the Commission shall draw up a report stating that the Parties have come to an agreement and, if necessary, the terms of such agreement, or else that it has been impossible to effect a settlement, as the case may be.

Unless the Parties have agreed

minée dans le délai de six mois à compter du jour où la Commission aura été saisie du litige.

ART. 7. Au moins de stipulation spéciale contraire, la Commission permanente de conciliation réglera elle-même sa procédure, qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la Commission, si elle n'en décide pas autrement à l'unanimité, se conformera aux dispositions du titre III (Commission internationale d'enquête) de la Convention de la Haye du 18 Octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 8. La commission permanente de conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son Président.

ART. 9. Les travaux de la Commission permanente de conciliation ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties.

ART. 10. Les parties seront représentées auprès de la Commission permanente de conciliation par des agents ayant mission de servir d'intermédiaires entre elles et la Commission; elles pourront, en outre, se faire assister par des conseils et des experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraîtrait utile.

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement.

otherwise, the proceedings of the Commission must be concluded within six months from the day on which it was notified of the dispute.

ART. 7. Failing any special provision to the contrary, the Permanent Conciliation Commission shall lay down its own procedure, which must in all cases provide for both Parties being heard. In regard to enquiries, the Commission shall, unless it unanimously decides otherwise, act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of The Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 8. Unless otherwise decided by agreement between the Parties, the Permanent Conciliation Commission shall meet at the place appointed by its President.

ART. 9. The deliberations of the Commission shall be held in private, unless the Commission decides otherwise, with the consent of the Parties.

ART. 10. The Parties shall be entitled to appoint agents to act as intermediaries between the Parties and the Permanent Conciliation Commission; they shall further be entitled to be assisted by counsel or by experts appointed by themselves for that purpose, and may claim a hearing for any persons whose evidence they may consider useful.

The Commission shall be entitled, for its part, to ask for oral explanations from the agents, counsel or experts of the two Parties, as also from any other persons whom it may think fit to summon, subject to the consent of their respective Governments.

ART. 11. Sauf disposition contraire du présent traité, les décisions de la Commission de conciliation seront prises à la majorité des voix.

ART. 12. Les Parties contractantes s'engagent à faciliter les travaux de la Commission de conciliation et, en particulier, à lui fournir, dans la plus large mesure possible, tous documents et informations utiles, ainsi qu'à user des moyens dont elles disposent pour lui permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

ART. 13. Pendant la durée des travaux de la Commission de conciliation, chacun des commissaires désignés en commun recevra une indemnité dont le montant sera arrêté, d'un commun accord, entre les Parties contractantes, qui en supporteront, chacune, une part égale.

ART. 14. A défaut de conciliation, devant la Commission permanente de conciliation, chacune des Parties pourra demander que le différend soit soumis à la Cour permanente de Justice internationale.

Dans le cas où, de l'avis de la Cour, le litige ne serait pas d'ordre juridique, les Parties conviennent qu'elle le tranchera *ex aequo et bono*.

ART. 15. Les Parties contractantes pourront décider, d'un commun accord, de porter le différend devant un Tribunal arbitral, qui, sauf accord contraire, sera composé de cinq membres, désignés

ART. 11. The Commission shall take decisions by a majority, except where otherwise laid down in the present Treaty.

ART. 12. The Contracting Parties undertake to give the Permanent Conciliation Commission every possible assistance in its work and, in particular, to supply it to the greatest possible extent with all relevant documents and information, and to employ all means at their disposal to enable the Commission, in their respective territories and in accordance with their internal laws, to cite and take the evidence of witnesses and experts, and to proceed to any place in order to carry out enquiries on the spot.

ART. 13. Each of the Commissioners appointed by common agreement shall receive an allowance for the actual duration of the proceedings of the Conciliation Commission; the amount of this allowance shall be fixed by agreement between the Contracting Parties, by whom it shall be borne in equal shares.

ART. 14. If the proceedings before the Permanent Conciliation Commission do not result in an amicable agreement, either Party may require that the dispute shall be submitted to the Permanent Court of International Justice.

If, in the opinion of the Court, the dispute is not of a legal character, the Parties agree that the Court shall decide it *ex aequo et bono*.

ART. 15. The Contracting Parties may decide by common agreement to bring the dispute before an arbitral tribunal; this tribunal, unless otherwise agreed upon, shall consist of five members, who shall

suivant la méthode prévue, aux articles 3 et 4 du présent traité, en ce qui concerne la Commission permanente de conciliation, et qui appliquera la procédure prévue par la Convention de la Haye du 18 Octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 16. Les Parties contractantes établiront, dans chaque cas particulier, un compromis spécial déterminant nettement l'objet du différend, les compétences particulières qui pourraient être dévolues à la Cour permanente de Justice internationale ou au Tribunal arbitral prévu à l'article précédent.

Le compromis sera établi par échange de notes entre les Gouvernements des Parties contractantes. Il sera interprété en tous points par la Cour de Justice ou le Tribunal arbitral.

Si le compromis n'est pas arrêté dans les six mois à compter du jour où l'une des Parties contractantes aura été saisie d'une demande aux fins de règlement judiciaire, chaque Partie pourra saisir la Cour de Justice par voie de simple requête. Au cas où les Parties auraient convenu de soumettre le différend à un Tribunal arbitral et ne parviendraient pas dans les six mois de la réception de la demande d'arbitrage à s'entendre au sujet du texte du compromis, il y sera obligatoirement supplée conformément à la procédure prévue au titre IV de la Convention de La Haye du 18 Octobre 1907 pour le règlement pacifique des conflits internationaux, qui régira, dans ce cas, le recours à l'arbitrage.

be appointed by the method laid down in Articles 3 and 4 of the present Treaty for the composition of the Permanent Conciliation Commission, and it shall observe the procedure laid down in The Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 16. In each particular case, the Contracting Parties shall draw up a special agreement (*compromis*) specifying clearly the subject of the dispute and the particular competence that might devolve upon the Permanent Court of International Justice or upon the arbitral tribunal provided for in the preceding Article.

The agreement shall be constituted by an exchange of Notes between the Governments of the Contracting Parties. All points therein shall be interpreted by the Court of Justice or the arbitral tribunal.

If the agreement is not drawn up within six months from the day on which one of the Parties has been requested to submit the matter for judicial settlement, either Party may bring the question before the Permanent Court of Justice by a simple request. If the Parties have agreed to submit the dispute to an arbitral tribunal, and have not reached an agreement regarding the text of the special agreement (*compromis*) within six months from the date of the reception of the request for arbitration, the text shall be compulsorily provided in accordance with the procedure laid down in Chapter IV of The Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes, and the recourse to arbitration shall, in such cases, be governed by the provisions of that Convention.

ART. 17. L'arrêt rendu par la Cour permanente de Justice internationale ou par le Tribunal arbitral sera exécuté de bonne foi par les Parties.

Les difficultés auxquelles l'interprétation de l'arrêt pourrait donner lieu seront tranchées par l'instance l'ayant prononcé. Chacune des Parties pourra la saisir à cette fin par voie de simple requête. Dans le cas, toutefois, où le Tribunal arbitral ayant prononcé l'arrêt à interpréter ne pourrait plus être réuni ou ne pourrait pas l'être dans un délai raisonnable, la contestation pourra être portée, par voie de simple requête, devant la Cour permanente de Justice internationale.

ART. 18. Durant le cours de la procédure de conciliation ou de la procédure judiciaire ou arbitrale, les Parties contractantes s'abstiendront de toute mesure pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission de conciliation ou sur l'exécution de l'arrêt de la Cour permanente de Justice internationale ou de la sentence du Tribunal arbitral.

ART. 19. Les contestations qui surgiraient au sujet de l'interprétation ou de l'exécution du présent traité seront, sauf convention contraire, soumises directement à la Cour permanente de Justice internationale par voie de simple requête.

ART. 20. Si, lors de l'expiration du présent traité, une procédure quelconque, en vertu et par application de ce traité, se trouvait pendante devant la Commission permanente de conciliation, devant la Cour permanente de Justice internationale ou devant un Tribunal

ART. 17. The judgment pronounced by the Permanent Court of International Justice or the award given by the arbitral tribunal shall be carried out by the Parties in good faith.

Any difficulties which might arise regarding the interpretation of the judgment or award shall be settled by the tribunal which gave it, upon a simple request to this effect submitted by either Party. If, however, the arbitral tribunal which gave the award requiring interpretation, cannot be again convened, or cannot meet within a reasonable time, the dispute may be brought, in virtue of a simple request, before the Permanent Court of International Justice.

ART. 18. During the procedure of conciliation, or the judicial or arbitral procedure, the Contracting Parties shall abstain from all measures which might prejudicially affect the acceptance of the proposals of the Conciliation Commission or the execution of the judgment of the Permanent Court of International Justice, or the award of the arbitral tribunal.

ART. 19. Any disputes which may arise as to the interpretation or the execution of the present Treaty shall, in the absence of an agreement to the contrary, be submitted direct to the Permanent Court of International Justice by means of a simple request.

ART. 20. If proceedings of any kind, undertaken in virtue and in execution of the present Treaty, are pending before the Permanent Conciliation Commission or the Permanent Court of International Justice, or before an arbitral tribunal, at the time of the expiration

d'arbitrage, cette procédure serait poursuivie jusqu'à son achèvement.

ART. 21. Le présent traité sera ratifié et les instruments de ratification en seront échangés à Berne dans le plus bref délai possible.

Le présent traité entrera en vigueur dès l'échange des ratifications et aura une durée de cinq ans à partir de son entrée en vigueur. S'il n'est pas dénoncé six mois avant l'expiration de ce terme, il demeurera en vigueur jusqu'à l'expiration d'un délai d'un an compté à partir du moment où l'une quelconque des Parties contractantes aura notifié à l'autre son intention d'y mettre fin.

En foi de quoi les Plénipotentiaires susnommés ont signé le présent traité.

Fait à Berne, en double exemplaire, le trois février mil neuf cent vingt-six.

N. Petrescu-Comnen  
G. Motta

of the present Treaty, such proceedings shall pursue their course until their completion.

ART. 21. The present Treaty shall be ratified and the instruments of ratification shall be exchanged at Berne as soon as possible.

The present Treaty shall come into force as soon as the instruments of ratification have been exchanged, and shall be valid for a period of five years reckoned from the date on which it comes into force. Unless it is denounced six months before the expiry of this period, it shall remain in force for a period of one year, reckoned from the date on which either Contracting Party shall have notified the other of its intention to terminate the Treaty.

In faith whereof the undermentioned<sup>1</sup> Plenipotentiaries have signed the present Treaty.

Done at Berne, in duplicate on February the third, nineteen hundred and twenty-six.

Motta  
N. P. Comnène

#### PERMANENT COMMISSION OF CONCILIATION

(Appointed February 1, 1927)

##### *President appointed by both Parties*

PAUL HYMANS, former Prime Minister of Belgium. (*Belgian.*)

##### *Members appointed by both Parties*

JOSEPH LIMBURG, Member of the Council of State of the Netherlands. (*Dutch.*)

ED. COBIAN, former Under-Secretary of State in the Spanish Ministry of Finance. (*Spanish.*)

##### *Member appointed by Rumania*

EMIL PANTAZI, Barrister. (*Rumanian.*)

##### *Member appointed by Switzerland*

THOMAS HOLNSTEIN, Member of the Swiss National Council. (*Swiss.*)

<sup>1</sup> Should read 'abovementioned.'



## No. 59

FINLAND-NORWAY: TREATY OF CONCILIATION  
AND ARBITRATION

Signed at Helsingfors February 3, 1926; ratifications exchanged March 15, 1927.

Original text from Finland, *Överenskommelser med främmande makter*, 1927, No. 2;<sup>1</sup>  
English translation from League of Nations, *Treaty Series*, LX, 368-370.

(Translation)

Le Président de la République de Finlande et Sa Majesté le Roi de Norvège, animés du désir de favoriser les efforts tendant au règlement par les voies pacifiques des différends internationaux, sont convenus à cet effet de conclure, en complément de la Convention relative à l'institution d'une Commission permanente d'enquête et de conciliation, conclue par les deux Etats le 27 juin 1924, une Convention pour le règlement pacifique des différends, et ont nommé pour Leurs Plénipotentiaires, savoir:

Le Président de la République de Finlande M. le Dr E. N. Setälä, Ministre des Affaires Etrangères, et  
Sa Majesté le Roi de Norvège M. H. H. Bachke, Son Envoyé Extraordinaire et Ministre Plénipotentiaire à Helsinki (Helsingfors),  
lesquels, dûment autorisés à cet effet, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. S'il s'élève entre les Parties Contractantes un différend d'ordre juridique n'ayant pu être réglé par la voie diplomatique, il sera soumis pour jugement à la Cour permanente de Justice internationale, conformément aux dispositions du statut de la dite Cour.

His Majesty the King of Norway and the President of the Republic of Finland, being desirous of promoting efforts for the pacific settlement of international disputes, have agreed for this purpose to supplement the Convention concerning the establishment of a Permanent Commission of Enquiry and Conciliation, concluded between the two countries on June 27, 1924, by a Convention for the pacific settlement of disputes, and have appointed as their Plenipotentiaries:

His Majesty the King of Norway:

M. H. H. Bachke, His Envoy Extraordinary and Minister Plenipotentiary at Helsingfors; and

The President of the Republic of Finland:

Dr. E. N. Setälä, Minister for Foreign Affairs;

Who, being duly authorised for the purpose, have agreed on the following provisions:

ARTICLE I. Any legal dispute arising between the Contracting Parties, which it has not been possible to settle by diplomacy, shall be submitted for judgment to the Permanent Court of International Justice, in accordance with the provisions of the Statute of the said Court.

<sup>1</sup> See also League of Nations, *Treaty Series*, LX, 354. The treaty is drafted in French, Norwegian, Finnish, and Swedish. The French text is authoritative.

Les différends pour le règlement desquels les Parties Contractantes se seront engagées, par d'autres conventions en vigueur entre elles, à recourir à une procédure judiciaire ou arbitrale spéciale, seront traités conformément aux dispositions des dits arrangements.

La présente Convention sera applicable même si les différends qui viendraient à s'élever avaient leur origine dans les faits antérieurs à sa conclusion.

Toute divergence de vues relative à l'interprétation et à l'application de la présente Convention sera réglée par la Cour permanente de Justice internationale.

ART. 2. Les Parties Contractantes s'engagent à soumettre à la procédure d'arbitrage, conformément aux dispositions ci-après, tous différends qui ne sont pas d'ordre juridique et qui n'auront pu être réglés par la voie diplomatique, toutefois seulement après qu'ils auront été soumis, sans avoir pu être réglés par cette voie, à la procédure d'enquête et de conciliation prévue dans la Convention du 27 juin 1924, concernant l'institution d'une Commission permanente d'enquête et de conciliation.

Les règles de l'article 38 du Statut de la Cour permanente de Justice internationale trouveront l'application correspondante dans les décisions du tribunal arbitral.

ART. 3. Sauf accord contraire des Parties, le tribunal arbitral à établir pour l'examen d'un des différends visés à l'article 2 de la présente Convention, sera constitué conformément aux dispositions du titre IV, chapitre II de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

Disputes for the settlement of which the Contracting Parties have undertaken, under other conventions in force between them, to have recourse to a special judicial or arbitral procedure, shall be dealt with in accordance with the terms of such agreements.

The present Convention shall apply even in cases where a dispute arises out of occurrences which took place before the conclusion of the Convention.

Any divergence of views regarding the interpretation and the application of the present Convention shall be settled by the Permanent Court of International Justice.

ART. 2. The Contracting Parties undertake to submit to arbitration, in accordance with the ensuing provisions, all disputes other than legal disputes and which it has not been possible to settle by diplomacy, on condition that they have first been subjected to the procedure of enquiry and conciliation provided for in the Convention of June 27, 1924, concerning the establishment of a Permanent Commission of Enquiry and Conciliation, and that it has not been found possible to settle them by this means.

The rules contained in Article 38 of the Statute of the Permanent Court of International Justice shall *mutatis mutandis* [apply] to the decisions of the Arbitral Tribunal.

ART. 3. Except where otherwise provided by agreement between the Parties, an Arbitral Tribunal to deal with disputes under Article 2 of the present Convention shall be constituted in conformity with the provisions of List IV, Chapter II, of The Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 4. En tant que les Parties ne seront pas convenues du contraire, relativement à la procédure d'arbitrage, les dispositions du titre IV, chapitre III de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux seront, sauf disposition contraire de la présente Convention, applicables à la dite procédure.

Si, dans un délai de six mois à dater du jour où l'une des Parties aura adressé à l'autre une demande tendant à soumettre le différend à l'arbitrage, le compromis visé par la dite Convention de La Haye n'a pas été signé, il sera établi, à la demande de l'une des Parties, par le tribunal arbitral.

Dans les cas où la présente Convention renvoie aux dispositions de la Convention de La Haye, les dites dispositions seront applicables entre les Parties lors même que cette dernière Convention aurait cessé d'être valable pour les deux Parties ou pour l'une d'elles.

ART. 5. A la demande de l'une des Parties, le tribunal arbitral pourra indiquer les mesures provisoires à prendre en vue de sauvegarder les droits de cette Partie, pourvu que ces mesures puissent être prises par la voie administrative.

ART. 6. La sentence arbitrale formulera, s'il y a lieu, des indications relatives au mode d'exécution de la dite sentence et notamment aux délais à observer à cet égard.

ART. 7. En ce qui concerne les questions qui, d'après la législation du pays contre lequel une demande est formée, relèvent de la compétence des tribunaux, y compris les tribunaux administratifs, la Partie

ART. 4. Unless the Parties have agreed otherwise, and except where otherwise provided in the present Convention, the arbitration procedure shall be governed by the provisions of List IV, Chapter III of The Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

In case the arbitration agreement provided for in The Hague Convention shall not have been signed within six months from the date on which one of the Parties has proposed to the other the submission of the dispute to arbitration, the said agreement shall, at the request of either of the Parties, be drawn up by the Arbitral Tribunal.

In cases in which the present Convention refers to provisions of The Hague Convention, the said provisions shall be applicable between the Parties, even if The Hague Convention has ceased to be binding on the two Parties or on either of them.

ART. 5. The Arbitral Tribunal may, at the request of either of the Parties, indicate the provisional measures to be taken in order to safeguard the rights of that Party, provided, however, that such measures can be taken by administrative action.

ART. 6. The arbitral award shall, when circumstances require, specify the manner in which it is to be carried out, in particular, as regards the time limits to be observed.

ART. 7. With regard to questions which, under the laws of the country against which an application is made, are within the competence of the courts, including the administrative courts, the Party

intéressée ne pourra pas exiger l'application de la procédure prévue à l'article 1<sup>er</sup> ou à l'article 2 avant qu'un jugement définitif ait été rendu par le tribunal compétent. Dans ce cas, le renvoi du différend à la procédure judiciaire ou arbitrale devra avoir lieu dans un délai d'une année au plus tard à compter de la date du jugement définitif.

ART. 8. Si la sentence judiciaire ou arbitrale déclarait qu'une décision ou une mesure prise par une instance judiciaire ou toute autre autorité de l'un des deux Etats se trouve entièrement ou partiellement en opposition avec le droit international, et si le droit constitutionnel du dit Etat ne permet pas ou ne permet qu'en partie d'effacer les conséquences de cette décision ou de cette mesure, les Parties conviennent qu'il devra, par la sentence judiciaire ou arbitrale, être accordé à la Partie lésée une satisfaction équitable d'un autre ordre.

ART. 9. Les Parties Contractantes s'engagent à s'abstenir, autant que possible, durant le cours de la procédure judiciaire ou arbitrale, de toute mesure pouvant avoir une répercussion préjudiciable à l'exécution de la sentence judiciaire ou arbitrale.

Les Parties devront se conformer de bonne foi à la sentence judiciaire ou arbitrale.

ART. 10. Les contestations qui pourraient surgir entre les Parties concernant l'interprétation ou l'exécution d'une sentence judiciaire ou arbitrale seront soumises, à moins qu'il n'en ait été convenu autrement, à la décision du tribunal qui a rendu la sentence.

ART. 11. La présente Convention est rédigée en langues finnoise,

concerned may not demand application of the procedure laid down in Article 1 or Article 2 until the final judgment has been given by the competent court. In such a case the dispute must be sent for adjudication by judicial or arbitral procedure within one year at most from the date of the final judgment.

ART. 8. If the judicial decision or arbitral award declares that the ruling or order of a judicial or other authority of either of the two States is wholly or in part contrary to international law, and if the constitutional law of that State does not permit, or only partially permits, the consequences of the said ruling or order to be annulled, the Parties agree that the Party injured by the judicial decision or arbitral award shall be granted suitable compensation of another kind.<sup>1</sup>

ART. 9. The Contracting Parties undertake to refrain as far as possible during the course of the judicial or arbitral procedure from any action likely to have a prejudicial effect on the execution of the judicial decision or arbitral award.

The Parties shall conform in good faith to the judicial decision or arbitral award.

ART. 10. Any dispute arising between the Parties regarding the interpretation or execution of the judicial or arbitral award shall, in the absence of an agreement to the contrary, be submitted for settlement to the tribunal which gave the decision or award.

ART. 11. The present Convention has been drawn up in the Nor-

<sup>1</sup> Construe the phrase 'by the judicial decision or arbitral award' with 'granted.' See the French text.

suédoise, norvégienne et française. Dans toutes les questions relatives à son interprétation, c'est le texte français qui fera foi.

La présente Convention sera ratifiée et les ratifications seront échangées à Oslo.

ART. 12. La présente Convention entrera en vigueur le jour de l'échange des ratifications. Elle aura une durée de vingt années, à compter du dit jour. Si elle n'est pas dénoncée deux ans au plus tard avant l'expiration de ce délai, elle demeurera en vigueur pendant une nouvelle période de vingt années et sera par la suite aussi censée prolongée chaque fois pour une période de vingt années, si elle n'est pas dénoncée deux ans au moins avant l'expiration de la dernière période.

Si, à l'expiration de la validité de la présente Convention, un différend est pendant devant une instance judiciaire ou un tribunal arbitral, en vertu de cette Convention, la procédure suivra son cours conformément aux dispositions de la Convention.

En foi de quoi, les Plénipotentiaires ont signé la présente Convention et l'ont munie de leurs cachets.

Fait en double exemplaire à Helsinki (Helsingfors), le 3 février 1926.

E. N. Setälä  
H. H. Bachke

wegian, Finnish, Swedish and French languages. In all questions relating to its interpretation the French text shall be authentic.

The present Convention shall be ratified, and the ratifications shall be exchanged at Oslo.

ART. 12. The present Convention shall come into force on the date of the exchange of the instruments of ratification. It shall be valid for twenty years from the aforesaid date. Unless it is denounced at least two years before the expiration of that period, it shall remain in force for a further period of twenty years, and shall thereafter be considered as prolonged for successive periods of twenty years, unless it has been denounced at least two years before the expiration of the preceding period.

If, at the time when the present Convention ceases to be valid, proceedings in respect of a dispute are pending before a judicial or arbitral tribunal in virtue of the present Convention, such dispute shall be disposed of in accordance with the provisions of the Convention.

In faith whereof the Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done in duplicate at Helsinki (Helsingfors) on February 3, 1926.

H. H. Bachke  
E. N. Setälä

#### PROTOCOL OF SIGNATURE

Au moment de procéder en date de ce jour à la signature d'une Convention entre la Finlande et la Norvège pour le règlement pacifique des différends, les soussignés, dûment autorisés à cet effet, conviennent que la Convention du 27 juin

When proceeding, on this day, to sign a Convention between Norway and Finland for the pacific settlement of disputes, the undersigned, being duly authorised for the purpose, have agreed that the Convention of June 27, 1924, concerning

1924 concernant l'institution d'une Commission permanente d'enquête et de conciliation restera en vigueur, nonobstant les dispositions de l'article 18 de cette Convention, aussi longtemps que la Convention pour le règlement pacifique des différends signée en date de ce jour portera ses effets.

En foi de quoi les Plénipotentiaires ont signé le présent Protocole qu'ils ont revêtu de leurs cachets.

Fait en double exemplaire à Helsinki (Helsingfors), le 3 février 1926.

E. N. Setälä  
H. H. Bachke

the establishment of a Permanent Commission of Enquiry and Conciliation shall remain in force, notwithstanding the provisions of Article 18 of the said Convention, so long as the Convention for the pacific settlement of disputes, signed on this day, shall remain valid.

In faith whereof, the Plenipotentiaries have signed the present Protocol and have affixed thereto their seals.

Done in duplicate at Helsinki (Helsingfors), February 3, 1926.

H. H. Bachke  
E. N. Setälä

## No. 60

### LIBERIA-THE UNITED STATES OF AMERICA: TREATY OF ARBITRATION

Signed at Monrovia February 10, 1926; ratifications exchanged September 27, 1926.

Original text from United States of America, *Treaty Series*, 1926, No. 747.<sup>1</sup>

The Government of the United States of America and the Government of the Republic of Liberia, being desirous of establishing a means for referring to arbitration questions arising between them which they shall consider possible to submit to such treatment, have named as their Plenipotentiaries for that purpose, to wit:

The President of the United States of America:

Clifton R. Wharton, Chargé d'Affaires ad interim of the United States at Monrovia; and

The President of the Republic of Liberia:

Edwin Barclay, Secretary of State of the Republic of Liberia;

Who, after having communicated to each other their full powers, found in good and due form, have agreed upon the following Articles:

ARTICLE I. Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two Contracting Parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the Conventions of July 29, 1899 and October 18, 1907, provided, nevertheless, that they do not affect the vital interests, the independence,

<sup>1</sup> See also League of Nations, *Treaty Series*, LVI, 280.

or the honor of the two Contracting States, and do not concern the interests of third Parties.

ART. II. In each individual case the High Contracting Parties, before appealing to the Permanent Court of Arbitration, shall conclude a special Agreement defining clearly the matter in dispute, the scope of the powers of the arbitrators, and the periods to be fixed for the formation of the Arbitral Tribunal and the several stages of the procedure. It is understood that on the part of the United States such special arrangements will be made by the President of the United States, by and with the advice and consent of the Senate thereof, and that on the part of Liberia they shall be subject to the procedure required by its laws.

ART. III. The present Convention shall be ratified by the Contracting Parties, in accordance with their respective constitutional methods. It shall come into force on the day of the exchange of the ratifications, which shall take place at Monrovia as soon as possible, and shall remain in force for a period of five years. In case neither Contracting Party should give notice, six months before the expiration of that period of its intention to terminate the Convention, it will continue binding until the expiration of six months from the day when either Contracting Party shall have denounced it.

Done in duplicate at Monrovia, this tenth day of February in the year one thousand nine hundred twenty-six.

Clifton R. Wharton  
Edwin Barclay

### No. 61

## AUSTRIA-CZECHOSLOVAKIA: TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Vienna March 5, 1926; ratifications exchanged May 31, 1926.

Original text from Austria, *Bundesgesetzblatt*, 1926, No. 136; <sup>1</sup> English translation from League of Nations, *Treaty Series*, LI, 351-359.

(Translation)

Le Président Fédéral de la République d'Autriche et le Président de la République Tchécoslovaque, animés du désir de développer les relations amicales qui unissent les deux Pays,

décidés à donner, dans leurs rapports réciproques, une large application aux principes dont s'inspire la Société des Nations,

d'accord pour assurer l'exécution des engagements pris ou à prendre

The President of the Czechoslovak Republic and the President of the Austrian Federal Republic,

Being desirous of strengthening the friendly relations existing between the two countries,

Being resolved to give the broadest application in their mutual relations to the principles of the League of Nations, and

Being agreed to ensure the execution of the obligations which

<sup>1</sup> See also League of Nations, *Treaty Series*, I.I, 350.

et relatifs à la solution pacifique des différends,

ont résolu de conclure un Traité de conciliation et d'arbitrage et ont nommé à cet effet pour Leurs Plénipotentiaires, savoir:

Le Président Fédéral de la République d'Autriche:

M. le Dr. Rodolphe Ramek, Chancelier Fédéral;

Le Président de la République Tchécoslovaque:

M. le Dr. Edvard Beneš, Ministre des Affaires Etrangères de la République Tchécoslovaque,

Lesquels, après avoir échangé leurs pleins pouvoirs reconnus en bonne et due forme, ont convenu des dispositions suivantes:

#### PARTIE I

ARTICLE 1<sup>er</sup>. Toutes contestations entre l'Autriche et la Tchécoslovaquie, de quelque nature qu'elles soient, au sujet desquelles les Parties se contesteraient réciproquement un droit, et qui n'auraient pu être réglées à l'amiable par les procédés diplomatiques ordinaires, seront soumises pour jugement soit à la Cour Permanente de Justice Internationale, soit à un Tribunal arbitral ainsi qu'il est prévu ci-après.

Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres conventions en vigueur entre les Hautes Parties Contractantes, seront réglées conformément aux dispositions de ces conventions.

ART. 2. Avant la procédure devant la Cour Permanente de Justice Internationale ou avant toute procédure arbitrale la contestation pourra être, d'un commun accord entre les Parties, soumise à fin de conciliation à une commission internationale permanente dite

have been or may be assumed with regard to the peaceful settlement of disputes,

Have decided to conclude a treaty of conciliation and arbitration, and have for this purpose appointed as their Plenipotentiaries:

The President of the Czechoslovak Republic:

Dr. Edvard Beneš, Minister for Foreign Affairs of the Czechoslovak Republic;

The President of the Austrian Federal Republic:

Dr. Rudolph Ramek, Federal Chancellor;

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions:

#### PART I

ARTICLE 1. All disputes of every kind between Czechoslovakia and Austria with regard to which the Parties are in conflict as to their respective rights, and which it may not be possible to settle amicably by the normal methods of diplomacy shall be submitted for decision either to the Permanent Court of International Justice, or to an arbitral tribunal, as laid down hereafter.

Disputes for the settlement of which a special procedure is laid down in other conventions in force between the High Contracting Parties shall be settled in conformity with the provisions of those conventions.

ART. 2. Before resort is made to procedure before the Permanent Court of International Justice or to any arbitral procedure, the dispute may, by agreement between the Parties, be submitted, with a view to amicable settlement, to a permanent international commis-



"Commission permanente de conciliation" constituée conformément au présent Traité.

ART. 3. S'il s'agit d'une contestation dont l'objet, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux de celle-ci, y compris les tribunaux administratifs, le différend ne sera soumis à la procédure prévue par le présent Traité qu'après jugement passé en force de chose jugée rendu, dans des délais raisonnables, par l'autorité judiciaire nationale compétente.

ART. 4. La Commission permanente de conciliation prévue à l'article 2 sera composée de trois membres qui seront désignés comme il suit: le Gouvernement Autrichien et le Gouvernement Tchécoslovaque nommeront chacun un Commissaire choisi parmi leurs nationaux respectifs et désigneront, d'un commun accord, le Président de la Commission parmi les ressortissants de tierces Puissances.

Les Commissaires seront nommés pour trois ans; leur mandat est renouvelable. Ils resteront en fonctions jusqu'à leur remplacement; et, dans tous les cas, jusqu'à l'achèvement de leurs travaux au moment de l'expiration de leur mandat.

Il sera pourvu, dans le plus bref délai, aux vacances qui viendraient à se produire, par suite de décès, de démission ou de quelques autres empêchements, en suivant le mode fixé pour les nominations.

ART. 5. La Commission permanente de conciliation sera constituée dans les six mois qui suivront l'entrée en vigueur du présent Traité.

sion, styled the "Permanent Conciliation Commission" constituted in accordance with the present Treaty.

ART. 3. In the case of a dispute the occasion of which, according to the municipal law of one of the Parties, falls within the competence of the national courts of such Party, including administrative courts, the matter in dispute shall not be submitted to the procedure laid down in the present Treaty until a judgment with final effect has been pronounced, within a reasonable time, by the competent national judicial authority.

ART. 4. The Permanent Conciliation Commission mentioned in Article 2 shall be composed of three members, who shall be appointed as follows: the Czechoslovak Government and the Austrian Government shall each nominate a commissioner chosen from among their respective nationals, and shall appoint, by common agreement, the President from among the nationals of third Powers.

The commissioners are appointed for three years, and their mandate is renewable. Their appointment shall continue until their replacement, and in any case until the termination of the work in hand at the moment of the expiry of their mandate.

Vacancies which may occur as a result of death, resignation or any other cause shall be filled within the shortest possible time in the manner fixed for the nominations.

ART. 5. The Permanent Conciliation Commission shall be constituted within six months from the entry into force of the present Treaty.

Si la nomination du Président n'intervenait pas dans ledit délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, le Président de la Confédération Suisse sera, à défaut d'autre entente, prié de procéder à la désignation nécessaire.

ART. 6. La Commission permanente de conciliation sera saisie, par voie de requête adressée au Président, par les deux Parties agissant d'un commun accord ou, à défaut, par l'une ou l'autre des Parties.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à la Partie adverse.

ART. 7. Dans un délai de quinze jours à partir de la date où le Gouvernement Tchécoslovaque ou le Gouvernement Autrichien aurait porté une contestation devant la Commission permanente de conciliation, chacune des Parties pourra, pour l'examen de cette contestation, remplacer Son Commissaire par une personne possédant une compétence spéciale dans la matière.

La Partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie. Celle-ci aura, dans ce cas, la faculté d'agir de même, dans un délai de quinze jours à partir de la date où la notification Lui sera parvenue.

ART. 8. La Commission permanente de conciliation aura pour

If the nomination of the President should not have taken place within the said period, or, in the case of the filling of a vacancy, within three months from the time when the seat falls vacant, the President of the Swiss Confederation shall, in the absence of other agreement, be requested to make the necessary appointment.

ART. 6. The Permanent Conciliation Commission shall be informed by means of a request addressed to the President by the two Parties acting in agreement, or, in the absence of such agreement, by one or other of the Parties.

The request, after having given a summary account of the subject of the dispute, shall contain the invitation to the Commission to take all necessary measures with a view to arriving at an amicable settlement.

If the request emanates from only one of the Parties, notification thereof shall be made without delay to the other Party.

ART. 7. Within fifteen days from the date when the Czechoslovak Government or the Austrian Government shall have brought a dispute before the Permanent Conciliation Commission, either Party may, for the examination of the particular dispute, replace its commissioner by a person possessing special competence in the matter.

The Party making use of this right shall immediately inform the other Party; the latter shall in that case be entitled to take similar action within fifteen days from the date when the notification reaches it.

ART. 8. The task of the Permanent Conciliation Commission shall

tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles, par voie d'enquête ou autrement, et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et Leur impartir un délai pour se prononcer.

A la fin de ces travaux, la Commission dressera un procès-verbal constatant, suivant le cas, soit que les Parties se sont arrangées et s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la Commission devront, à moins que les Parties en conviennent différemment, être terminés dans les délais de six mois à compter du jour où la Commission aura été saisie du litige.

ART. 9. A moins de stipulation spéciale contraire, la Commission permanente de conciliation réglera elle-même sa procédure qui, dans tous les cas, devra être contradictoire. En matière d'enquête, la Commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du titre III (Commission internationale d'enquête) de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 10. La Commission permanente de conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son Président.

ART. 11. Les travaux de la Commission permanente de conciliation ne sont publics qu'en vertu d'une

be to elucidate questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of settlement which seem suitable to it, and lay down a period within which they are to make their decision.

At the close of its labours the Commission shall draw up a report stating, as the case may be, either that the Parties have come to an agreement and, if need arises, the terms of the agreement or that it has been impossible to effect a settlement.

The labours of the Commission must, unless the Parties otherwise agree, be terminated within six months from the day on which the Commission shall have been notified of the dispute.

ART. 9. Failing any special provision to the contrary, the Permanent Conciliation Commission shall lay down its own procedure, which in any case must provide for both Parties being heard. In regard to enquiries, the Commission, unless it decides unanimously to the contrary, shall act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of The Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 10. The Permanent Conciliation Commission shall meet, in the absence of agreement by the Parties to the contrary, at a place selected by its President.

ART. 11. The labours of the Permanent Conciliation Commission are not public except when a de-

décision prise par la Commission avec l'assentiment des Parties.

ART. 12. Les Parties seront représentées auprès de la Commission permanente de conciliation par des agents ayant mission de servir d'intermédiaire entre Elles et la Commission; Elles pourront en outre se faire assister par des conseils et experts nommés par Elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraît utile.

La Commission aura de son côté la faculté de demander des explications orales aux agents, conseils et experts des deux Parties, ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur gouvernement.

ART. 13. Sauf disposition contraire du présent Traité, les décisions de la Commission permanente de conciliation seront prises à la majorité des voix. Chaque membre disposera d'une voix; en cas de partage, la voix du Président sera décisive.

La Commission ne pourra prendre des décisions portant sur le fond du différend que si tous les membres ont été dûment convoqués et si le Président et un membre au moins sont présents.

ART. 14. Les Gouvernements Autrichien et Tchécoslovaque s'engagent à faciliter les travaux de la Commission permanente de conciliation et en particulier à lui fournir, dans la plus large mesure possible, tous documents et informations utiles, ainsi qu'à user des moyens dont ils disposent pour lui permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

cision to that effect has been taken by the Commission with the consent of the Parties.

ART. 12. The Parties shall be represented before the Permanent Conciliation Commission by agents, whose duty it shall be to act as intermediary between them and the Commission; they may moreover be assisted by counsel and experts appointed by them for that purpose, and may request that all persons whose evidence appears to them useful should be heard.

The Commission on its side shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties, as well as from all persons it may think useful to summon with the consent of their Government.

ART. 13. Unless otherwise provided in the present Treaty the decisions of the Permanent Conciliation Commission shall be taken by a majority. Each member shall have one vote; in the event of an equality of votes the President shall have a casting vote.

The Commission may not take decisions bearing on the substance of the dispute unless all the members have been duly convened and unless the President and at least one member are present.

ART. 14. The Czechoslovak and Austrian Governments undertake to facilitate the labours of the Permanent Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to allow it to proceed in their territory and in accordance with their law to the summoning and hearing of witnesses or experts, and to visit the localities in question.

ART. 15. Pendant la durée des travaux de la Commission permanente de conciliation, chacun de Commissaires recevra une indemnité dont le montant sera arrêté, d'un commun accord, entre les Gouvernements Autrichien et Tchécoslovaque.

Chaque Gouvernement supportera ses propres frais et une part égale des frais communs de la Commission.

ART. 16. A défaut de conciliation devant la Commission permanente de conciliation, la contestation sera soumise, par voie de compromis, à la Cour Permanente de Justice Internationale, dans les conditions et suivant la procédure prévues par son Statut.

A défaut d'accord entre les Parties sur le compromis et après un préavis d'un mois, l'une ou l'autre d'entre Elles aura la faculté de porter directement, par voie de requête, la contestation devant la Cour Permanente de Justice Internationale.

La disposition de cet article ne porte pas atteinte à la faculté des Parties de soumettre la contestation, par voie de compromis, à un tribunal arbitral dans les conditions et suivant la procédure prévues par la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

## PARTIE II

ART. 17. Toutes questions sur lesquelles le Gouvernement Autrichien et le Gouvernement Tchécoslovaque seraient divisées sans pouvoir les résoudre à l'amiable par les procédés diplomatiques ordinaires, dont la solution ne pourrait être recherchée par un jugement, ainsi qu'il est prévu par l'article premier du présent Traité et pour

ART. 15. During the labours of the Permanent Conciliation Commission each commissioner shall receive a salary, the amount of which shall be fixed by agreement between the Czechoslovak and Austrian Governments.

Each Government shall bear its own expenses and an equal share of the common expenses of the Commission.

ART. 16. In the event of no amicable agreement being reached before the Permanent Conciliation Commission the dispute shall be submitted by means of a special agreement to the Permanent Court of International Justice under the conditions and according to the procedure laid down by its Statute.

If the Parties cannot agree on the terms of the special agreement after a month's notice, one or other of them may bring the dispute before the Permanent Court of International Justice by means of an application.

The provisions of the present Article do not affect the right of the Parties to submit the dispute by means of a special agreement to an arbitral tribunal under the conditions and according to the procedure laid down by The Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

## PART II

ART. 17. All questions on which the Czechoslovak and Austrian Governments shall differ without being able to reach an amicable solution by means of the normal methods of diplomacy, the settlement of which cannot be attained by means of a judicial decision as provided in Article 1 of the present Treaty, and for the settlement of

lesquelles une procédure de règlement ne serait pas déjà prévue par un Traité en vigueur entre les Parties, seront soumises à la Commission permanente de conciliation, qui sera chargée de proposer aux Parties une solution acceptable et, dans tous les cas, de présenter un rapport.

La procédure prévue par les articles 6 à 15 du présent Traité sera appliquée.

ART. 18. Si, dans le mois qui suivra la clôture des travaux de la Commission permanente de conciliation, les deux Parties ne se sont pas entendues, Elles tâcheront de se mettre d'accord pour porter la question devant la Cour Permanente de Justice Internationale en vue d'une décision à prendre conformément à l'alinéa 2 de l'article 38 du Statut de ladite Cour.

#### DISPOSITIONS GÉNÉRALES

ART. 19. Les Gouvernements Autrichien et Tchécoslovaque s'engagent respectivement à s'abstenir, durant le cours d'une procédure ouverte en vertu des dispositions du présent Traité, de toute mesure susceptible d'avoir une répercussion préjudiciable soit à l'exécution de l'arrêt de la Cour Permanente de Justice Internationale, soit aux arrangements proposés par la Commission permanente de conciliation, et en général, à ne procéder à aucun acte de quelque nature qu'il soit susceptible d'aggraver ou d'étendre le différend.

Dans tous les cas et notamment si la question au sujet de laquelle les Parties sont divisées résulte d'actes déjà effectués ou sur le point de l'être, la Cour Permanente de Justice Internationale statuant conformément à l'article 41 de son Statut, indiquera dans le plus bref délai possible, quelles

which no procedure has been laid down by a Treaty in force between the Parties, shall be submitted to the Permanent Conciliation Commission, whose duty it shall be to propose to the Parties an acceptable solution and in any case to present a report.

The procedure laid down in Articles 6-15 of the present Treaty shall be applicable.

ART. 18. If the two Parties have not reached an agreement within a month from the termination of the labours of the Permanent Conciliation Commission, they shall endeavour to agree to bring the question before the Permanent Court of International Justice with a view to a decision under Article 38, paragraph 2, of the Statute of the Court.

#### GENERAL PROVISIONS

ART. 19. The Czechoslovak and Austrian Governments respectively agree to abstain, during the course of proceedings undertaken in virtue of the provisions of the present Treaty, from all measures likely to have a repercussion prejudicial to the execution of the award of the Permanent Court of International Justice or the arrangements proposed by the Permanent Conciliation Commission, and in general to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

In any case, and particularly if the question on which the Parties differ arises out of acts committed, or on the point of commission, the Permanent Court of International Justice, acting in conformity with Article 41 of its Statute shall lay down within the shortest possible time the provisional methods to be adopted. The High Contracting

mesures provisoires doivent être prises. Les Hautes Parties Contractantes s'engagent à se conformer à des mesures provisoires indiquées ainsi.

ART. 20. Tous différends relatifs à l'interprétation du présent Traité seront soumis à la Cour Permanente de Justice Internationale.

ART. 21. Le Présent Traité sera ratifié et l'échange des ratifications aura lieu à Prague aussitôt que faire se pourra.

Le Traité est conclu pour une durée de dix années à compter de la date de l'échange des ratifications. S'il n'est pas dénoncé une année au moins avant l'expiration de ce terme, il demeurera en vigueur pour une nouvelle période de dix années et ainsi de suite.

En foi de quoi, les Plénipotentiaires ont signé le présent Traité.

Fait à Vienne, le 5 mars 1926.

Dr. Ramek

Dr. Edvard Beneš

Parties undertake to accept such provisional measures.

ART. 20. All disputes relating to the interpretation of the present Treaty shall be submitted to the Permanent Court of International Justice.

ART. 21. The present Treaty shall be ratified and the exchange of ratifications shall take place at Prague as soon as possible.

The Treaty is concluded for a period of ten years from the date of the exchange of ratifications. Unless denounced at least one year before the expiration of this period, it shall remain in force for a further period of ten years and similarly thereafter.

In faith whereof the Plenipotentiaries have signed the present Treaty.

Done at Vienna on March 5, 1926.

Dr. Edvard Beneš  
Dr. Ramek

#### PERMANENT COMMISSION OF CONCILIATION

*President appointed by both Parties*

PAUL RAMBERT. (*Swiss.*)

*Member appointed by Austria*

JOHN ANDREAS EICHHOFF. (*Austrian.*)

*Member appointed by Czechoslovakia*

JAROSLAV KALLAB. (*Czechoslovakian.*)

## No. 62

AUSTRIA-POLAND: TREATY OF CONCILIATION  
AND ARBITRATION

Signed at Vienna April 16, 1926; ratifications exchanged April 2, 1927.

Original text from Poland, *Dziennik Ustaw*, 1927, No. 40;<sup>1</sup> English translation '101  
League of Nations, *Treaty Series*, LXII, 331-339.

## (Translation)

Le Président de la République de Pologne et le Président Fédéral de la République d'Autriche

animés du désir de développer les relations amicales qui unissent les deux Pays,

décidés à donner, dans leurs rapports réciproques, une large application aux principes dont s'inspire la Société des Nations,

ont résolu de conclure un traité de conciliation et d'arbitrage et ont nommé à cet effet leurs Plénipotentiaires, savoir:

Le Président de la République de Pologne:

Monsieur Aleksander Skrzyński, docteur en droit, Président du Conseil des Ministres, Ministre des Affaires Étrangères,

Le Président Fédéral de la République d'Autriche:

Monsieur Rodolphe Ramek, docteur en droit, Chancelier Fédéral, lesquels, après s'être fait connaître leurs pleins pouvoirs, reconnus en bonne et due forme, ont convenu des dispositions suivantes:

## PARTIE I

ARTICLE 1<sup>er</sup>. (1) Les Parties Contractantes s'engagent à soumettre à la procédure de conciliation et, le cas échéant, à la procédure d'arbitrage tous les différends qui pourraient s'élever entre Elles et n'au-

The President of the Austrian Federal Republic and the President of the Polish Republic;

Being desirous of further developing the friendly relations existing between the two countries;

Being determined fully to apply in their mutual relations the principles which inspire the League of Nations;

Have decided to conclude a Treaty of Conciliation and Arbitration and for this purpose have appointed as their Plenipotentiaries:

The President of the Austrian Federal Republic:

Dr. Rudolph Ramek, Doctor of Laws, Federal Chancellor;

The President of the Polish Republic:

Dr. Alexander Skrzyński, Doctor of Laws, Prime Minister and Minister for Foreign Affairs;

Who, having exchanged their full powers, found in good and due form, have agreed upon the following provisions:

## PART I

ARTICLE 1. (1) The Contracting Parties undertake to submit to the procedure of conciliation, and, if necessary, of arbitration, all disputes which may arise between them and which it has not been

<sup>1</sup> See also League of Nations, *Treaty Series*, LXII, 330.



raient pu être réglés par la voie diplomatique dans un délai raisonnable.

(2) Toutefois cet engagement ne s'appliquera, ni aux questions que le droit international laisse à la compétence exclusive des États, ni aux contestations nées de faits qui sont antérieurs au présent Traité et qui appartiennent au passé.

(3) Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres conventions en vigueur entre les Parties Contractantes seront réglées conformément aux dispositions de ces conventions.

ART. 2. (1) S'il s'agit d'une contestation dont l'objet, d'après la législation interne de l'une des Parties, relève de la compétence des tribunaux nationaux de celle-ci, y compris les tribunaux administratifs, cette contestation ne sera soumise à l'une des procédures prévues par le présent Traité qu'après jugement passé en force de chose jugée rendu, dans les délais raisonnables, par l'autorité judiciaire nationale compétente.

(2) La demande de conciliation devra, dans ce cas, être formée une année au plus tard à compter du jugement définitif.

ART. 3. (1) Tout différend susceptible d'être réglé de la manière indiquée ci-dessus sera soumis à la procédure de conciliation, à moins que les Parties ne conviennent de la soumettre immédiatement à l'arbitrage.

(2) Au cas, où la proposition élaborée par la Commission permanente de conciliation n'aurait pas été acceptée par les deux Parties, le différend sera soumis à l'arbitrage, si l'une des Parties le demande.

found possible to settle by diplomacy within a reasonable time.

(2) Nevertheless, this undertaking shall not apply either to questions which under international law are within the exclusive competence of the States themselves or to disputes arising out of events prior to the present Treaty and belonging to the past.

(3) Disputes for the settlement of which a special procedure is laid down in other Conventions in force between the Contracting Parties shall be settled in conformity with the provisions of those Conventions.

ART. 2. (1) In the case of a dispute the occasion of which according to the municipal law of one of the Parties falls within the competence of the national courts of that Party (including administrative courts), the matter in dispute shall not be submitted to any of the procedures laid down in the present Treaty until a judgment with final effect has been pronounced within a reasonable time by the competent national judicial authority.

(2) The request for conciliation must in the above case be put forward within one year, at the latest, from the date of the final judgment.

ART. 3. (1) Any dispute capable of being settled in the manner set forth above shall be submitted to the procedure of conciliation unless the Parties agree to submit it immediately to arbitration.

(2) Should the proposal made by the Permanent Conciliation Commission not have been accepted by both Parties, the dispute shall be submitted to arbitration if one of the Parties so requests.

ART. 4. (1) Dans les six mois qui suivront l'échange des ratifications du présent Traité, les Parties Contractantes institueront une Commission permanente de conciliation, composée de trois membres.

(2) Les Parties nommeront chacune un membre à leur gré et désigneront le troisième, qui sera Président de la Commission, d'un commun accord. Ce dernier ne devra ni être un ressortissant des Parties Contractantes, ni avoir son domicile sur leur territoire, ni se trouver à leur service.

(3) Si la nomination du Président n'intervenait pas dans ledit délai de six mois ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, le Président de la Confédération Suisse sera, à défaut d'autre entente, prié de procéder à la désignation nécessaire.

ART. 5. (1) Les Commissaires seront nommés pour trois ans; leur mandat est renouvelable. Ils resteront en fonction jusqu'à leur remplacement et, dans tous les cas, jusqu'à l'achèvement de leurs travaux au moment de l'expiration de leur mandat.

(2) Il sera pourvu dans le plus bref délai aux vacances qui viendraient à se produire, par suite de décès, de démission ou de quelques autres empêchements, en suivant le mode fixé pour les nominations.

ART. 6. (1) La Commission permanente de conciliation sera saisie par voie de requête adressée à son Président par les deux Parties agissant d'un commun accord ou, à

ART. 4. (1) In the six months following the exchange of the ratifications of the present Treaty, the Contracting Parties shall set up a Permanent Conciliation Commission consisting of three members.

(2) The Parties shall each choose one member and shall jointly appoint the third, who shall be President of the Commission. The latter must not be a national of one of the Contracting Parties nor be domiciled in their territory or be in their service.

(3) If the President has not been appointed within the said period of six months or, in the event of the post becoming vacant, if the new President has not been appointed within three months from the date on which the post became vacant, the President of the Swiss Confederation shall, in the absence of any other agreement, be requested to make the necessary appointment.

ART. 5. (1) The members of the Commission shall be appointed for three years; their appointment can be renewed. They shall remain in office until replaced, and in any case until the close of proceedings in progress at the date of the expiration of their term of office.

(2) Steps shall be taken without delay to fill vacancies arising as a result of the decease, retirement or other circumstances preventing a member from carrying out his duties. In such cases the procedure laid down for appointments shall be followed.

ART. 6. (1) The Permanent Conciliation Commission shall be informed by means of a request addressed to its President by the two Parties acting in agreement,

défaut, par l'une ou l'autre des Parties.

(2) La requête, après avoir exposé l'objet du litige, contiendra l'invitation à la Commission de proposer toutes mesures propres à conduire à une conciliation.

(3) Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à la Partie adverse.

ART. 7. (1) Dans un délai de quinze jours à partir de la date, où le Gouvernement polonais ou le Gouvernement autrichien aurait porté une contestation devant la Commission permanente de conciliation, chacune des Parties pourra, pour l'examen de cette contestation, remplacer son Commissaire par une personne possédant une compétence spéciale dans la matière.

(2) La Partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie. Celle-ci aura, dans ce cas, la faculté d'agir de même, dans un délai de quinze jours à partir de la date, où la notification lui sera parvenue.

ART. 8. (1) La Commission permanente de conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

(2) A la fin de ses travaux, la Commission dressera un procès verbal, constatant, suivant le cas, soit que les Parties se sont arran-

or, in the absence of such agreement, by one or other of the Parties.

(2) The request, after having given a summary account of the subject of the dispute, shall contain the invitation to the Commission to take all necessary measures with a view to arriving at an amicable settlement.

(3) If the request emanates from only one of the Parties notification thereof shall be made without delay to the other Party.

ART. 7. (1) Within fifteen days from the date on which either the Polish or the Austrian Government shall have brought a dispute before the Permanent Conciliation Commission, either Party may, for the examination of the particular dispute, replace its commissioner by a person possessing special competence in the matter.

(2) The Party making use of this right shall immediately inform the other Party; the latter shall in that case be entitled to take similar action within fifteen days from the date when the notification reaches it.

ART. 8. (1) The task of the Permanent Conciliation Commission shall be to elucidate questions in dispute, to collect with that object all necessary information, and to endeavour to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of settlement which seem suitable to it, and lay down a period within which they are to make their decision.

(2) At the close of its labours the Commission shall draw up a report stating, as the case may be, either that the Parties have come to an

gées, et, s'il y a lieu, les conditions de cet arrangement, soit que les Parties n'ont pu être conciliées.

(3) Les travaux de la Commission devront être terminés dans le délai de six mois à compter du jour de la première séance de la Commission. Les Parties, d'un commun accord, pourront proroger ou abréger ce délai.

(4) Le rapport de la Commission n'aura, ni en ce qui concerne l'exposé des faits, ni en ce qui concerne les considérations juridiques, le caractère d'une sentence arbitrale.

ART. 9. (1) La procédure devant la Commission permanente de conciliation sera contradictoire.

(2) La Commission règlera elle-même sa procédure, en tenant compte, sauf décision contraire prise à l'unanimité, des dispositions contenues au Titre III de la Convention de la Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

(3) Les délibérations de la Commission auront lieu à huis clos, à moins que la Commission, d'accord avec les Parties, n'en décide autrement.

ART. 10. (1) La Commission permanente de conciliation ne pourra prendre des décisions qu'en présence de tous ses membres, dûment convoqués.

(2) Sauf dispositions contraires du présent Traité, les décisions de la Commission seront prises à la majorité des voix. Chaque membre disposera d'une voix.

ART. 11. (1) La Commission permanente de conciliation se réunira, sauf accord contraire entre

agreement and, if need arises, the terms of the agreement, or that it has been impossible to effect a settlement.

(3) The labours of the Commission must be terminated within six months from the date of the first meeting of the Commission. The Parties may, by common consent, extend or shorten this period.

(4) The Commission's report shall not have the character of an arbitral award either in respect of the statement of facts or of the legal arguments set forth.

ART. 9. (1) In proceedings before the Permanent Conciliation Commission both Parties shall be heard.

(2) The Commission shall itself determine its procedure, being guided, unless it unanimously decides to the contrary, by the provisions of Chapter III of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

(3) The discussions shall take place in private unless the Commission with the assent of the Parties should decide otherwise.

ART. 10. (1) The Permanent Conciliation Commission shall take no decisions unless all its members have been duly convened and are present.

(2) Unless otherwise provided in the present Treaty, the decisions of the Commission shall be taken by a majority vote. Each member shall have one vote.

ART. 11. The Permanent Conciliation Commission shall meet, in the absence of an agreement by the

les Parties, au lieu désigné par son Président, qui toutefois doit être situé en dehors des territoires des Parties.

ART. 12. (1) Les travaux de la Commission permanente de conciliation ne pourront être rendus publics qu'en vertu d'une décision de la Commission prise à l'unanimité et avec l'assentiment des Parties.

ART. 13. (1) Les Parties seront représentées auprès de la Commission permanente de conciliation par des agents ayant mission de servir d'intermédiaires entre Elles et la Commission; Elles pourront, en outre, se faire assister par des conseils et experts nommés par Elles à cet effet.

(2) La Commission aura de son côté la faculté de demander des explications orales aux agents, conseils et experts des deux Parties, ainsi que la communication par le Gouvernement respectif de la déposition de toutes personnes dont le témoignage serait considéré par elle comme pertinent.

ART. 14. (1) Les Parties Contractantes fourniront à la Commission permanente de conciliation toutes les informations utiles et lui faciliteront, à tous égards et dans toute la mesure du possible, l'accomplissement de sa tâche.

## PARTIE II

ART. 15. (1) Lorsque, en vertu des dispositions de l'article premier ou troisième du présent Traité, un différend sera soumis à l'arbitrage, le tribunal arbitral sera établi par l'accord des Parties.

(2) A défaut de constitution du tribunal par l'accord des Parties dans un délai de trois mois à comp-

Parties to the contrary, at a place selected by its President, which must, however, be outside the territory of the Parties.

ART. 12. The proceedings of the Permanent Conciliation Commission shall not be public except when an unanimous decision to that effect has been taken by the Commission with the consent of the Parties.

ART. 13. (1) The Parties shall be represented before the Permanent Conciliation Commission by agents, whose duty it shall be to act as intermediary between them and the Commission; they may, moreover, be assisted by counsel and experts appointed by them for that purpose.

(2) The Commission for its part shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties and to request the Government concerned to communicate the statements made by any persons whose evidence may be considered by the Commission as having a bearing on the case.

ART. 14. The Contracting Parties shall supply the Permanent Conciliation Commission with all information required and shall assist it in all respects and in every way possible in the performance of its task.

## PART II

ART. 15. (1) When, under the provisions of Article 1 or Article 3 of the present Treaty, a dispute is submitted to arbitration, a Court of Arbitration shall be set up by agreement between the Parties.

(2) If the Court of Arbitration is not set up by agreement between the Parties within a period of three

ter du jour, où l'une des Parties aura adressé à l'autre la demande d'arbitrage, il sera procédé de la manière suivante: chaque Partie nommera deux arbitres dont l'un devra être pris sur la liste des membres de la Cour permanente d'arbitrage et choisi à l'exclusion de ses propres nationaux et de ceux qui ont été désignés par Elle comme membres de ladite Cour. Les arbitres ainsi désignés choisiront ensemble le Président du tribunal. En cas de partage des voix le Président de la Confédération Suisse sera prié de procéder à la désignation nécessaire.

ART. 16. (1) Lorsqu'il y aura lieu à un arbitrage entre Elles, les Parties Contractantes s'engagent à conclure, dans un délai de trois mois à compter du jour, où l'une des Parties aura adressé à l'autre la demande d'arbitrage, un compromis spécial concernant l'objet du litige, ainsi que les modalités de la procédure.

(2) Si ce compromis ne peut être conclu dans le délai prévu, les Parties constitueront un Tribunal Spécial conformément aux dispositions de l'article 15, al. 2, qui de plein droit établira les clauses de ce compromis.

(3) Dans les cas de l'article 15, al. 2, les délais prévus ci-dessus ne seront comptés qu'à partir de la constitution du Tribunal.

ART. 17. (1) La sentence arbitrale est obligatoire et doit être exécutée de bonne foi par les Parties.

(2) Si, toutefois, la sentence établissait qu'une décision d'une

months reckoned from the date on which one of the Parties has addressed the request for arbitration to the other Party, the following procedure shall be adopted:

Each Party shall appoint two arbitrators, one of whom must be on the list of members of the Permanent Court of Arbitration but must not be a national of the Party in question or one of those persons appointed by that Party as members of the said Court. The arbitrators thus appointed shall themselves choose a President of the Court. If the votes are equally divided, the President of the Swiss Confederation shall be requested to make the necessary appointment.

ART. 16. (1) Whenever a question has to be decided by arbitration, the Contracting Parties undertake to conclude, within three months reckoned from the day on which either has addressed a request for arbitration to the other Party, a special agreement concerning the object of the dispute and the methods of procedure.

(2) If such agreement cannot be concluded within the prescribed period, the Parties shall set up a special court in accordance with the provisions of Article 15 (2), which shall have full authority to draw up the terms of the said agreement.

(3) In cases dealt with under Article 15 (2) the above-mentioned time limit shall only be reckoned as from the date on which the Court is established.

ART. 17. (1) The arbitral award shall be binding and must be loyally carried out by the Parties.

(2) If, however, the award establishes the fact that the decision of

instance judiciaire ou de toute autre autorité relevant de l'une des Parties Contractantes se trouve entièrement ou partiellement en opposition avec le droit international, et si le droit constitutionnel de cette Partie ne permettait d'effacer ou de n'effacer qu'imparfaitement par voie administrative les conséquences de la décision dont il s'agit, il sera accordé à la Partie lésée une satisfaction équitable d'un autre ordre.

#### DISPOSITIONS GÉNÉRALES

ART. 18. (1) Pendant la durée effective de la procédure de conciliation ou d'arbitrage, le membre de la Commission permanente de conciliation désigné en commun et les membres du Tribunal arbitral recevront une indemnité dont le montant sera arrêté par les Parties Contractantes.

(2) Chaque Partie supportera ses propres frais et une part égale des frais communs de la Commission et du Tribunal.

ART. 19. (1) Durant le cours de la procédure de conciliation et de la procédure arbitrale, les Parties Contractantes s'abstiendront de toute mesure pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission permanente de conciliation ou sur l'exécution de la sentence arbitrale.

ART. 20. (1) Tout différend relatif à l'interprétation du présent Traité sera soumis à la Cour Permanente de Justice Internationale.

ART. 21. (1) Le Présent Traité sera ratifié. Les instruments de ratification en seront échangés à Varsovie, dans le plus bref délai possible.

some judicial or other authority of one of the Contracting Parties is entirely or partly at variance with International Law and if the Constitutional Law of that Party precludes the annulment, or only allows of a partial annulment, through administrative channels, of the effects of such a decision, the injured Party shall be accorded equitable satisfaction in some other

#### GENERAL CLAUSES

ART. 18. (1) While conciliation or arbitration proceedings are actually in progress, the member of the Permanent Conciliation Commission appointed by common agreement and the members of the Court of Arbitration shall receive an allowance, on a scale to be determined by the Contracting Parties.

(2) Each Party shall bear its own expenses and an equal share of the expenses of the Commission and of the Court.

ART. 19. While the procedure of conciliation and arbitration is in progress, the Contracting Parties shall refrain from any act which may tend to hinder acceptance of the proposals of the Permanent Conciliation Commission or the execution of the arbitral award.

ART. 20. Any dispute regarding the interpretation of the present Treaty shall be submitted to the Permanent Court of International Justice.

ART. 21. (1) The present Treaty shall be ratified. The instruments of ratification shall be exchanged at Warsaw as soon as possible.

(2) Le Traité entrera en vigueur le trentième jour après l'échange des ratifications et aura une durée de trois années. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il demeurera en vigueur pendant une période d'un an, et ainsi de suite.

(3) Au moment de l'entrée en vigueur du présent Traité, la Convention d'arbitrage, conclue à Varsovie le 13 novembre 1923 entre la Pologne et l'Autriche, cessera de produire ses effets.

En foi de quoi, les Plénipotentiaires ont signé le présent Traité et y ont apposé leurs cachets.

Fait à Vienne, le 16 avril 1926.

Al. Skrzyński  
Ramek

(2) The Treaty shall come into force on the thirtieth day after the date of exchange of ratifications and shall remain in force for three years. If not denounced six months before the expiration of that period, it shall remain in force successive periods of one year.

(3) As from the date on which the present Treaty comes into force, the Arbitration Convention concluded at Warsaw between Austria and Poland on November 13, 1923, shall cease to have effect.

In faith whereof the Plenipotentiaries have signed the present Treaty and have thereto affixed their seals.

Done at Vienna, April 16, 1926.

Ramek  
Al. Skrzyński

#### PERMANENT COMMISSION OF CONCILIATION

(Appointed December 1, 1927)

##### *President appointed by both Parties*

ARNOLD RAESTAD, former Minister for Foreign Affairs of Norway. (*Norwegian.*)

##### *Member appointed by Austria*

JOHN ANDREAS EICHHOFF, former Minister of Austria to France. (*Austrian.*)

##### *Member appointed by Poland*

STANISLAUS WRÓBLEWSKI, Professor at the University of Cracow, President of the Polish Supreme Court of State Control. (*Polish.*)



## No. 63

SPAIN-SWITZERLAND: TREATY OF CONCILIATION,  
ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Madrid April 20, 1926; ratifications exchanged January 29, 1927.

Original text from Switzerland, *Recueil des Lois fédérales*, XLIII, 1927, No. 3;<sup>1</sup>  
English translation from League of Nations, *Treaty Series*, LX, 30-33.

(Translation)

Le Conseil Fédéral Suisse et Sa Majesté le Roi d'Espagne animés du désir de resserrer les liens d'amitié existant entre les deux Pays et de contribuer au maintien de la paix générale en donnant, dans leurs rapports réciproques, la plus large application possible aux principes consacrés par le Pacte de la Société des Nations, notamment par son article XIII,

Se fondant sur l'article XXI du même Pacte,

Ont résolu de conclure un traité général de conciliation et de règlement judiciaire et ont désigné dans ce but leurs Plénipotentiaires, savoir:

Le Conseil Fédéral Suisse:

M. Maxime de Stoutz, Envoyé Extraordinaire et Ministre Plénipotentiaire de Suisse en Espagne,  
Sa Majesté le Roi d'Espagne:

Son Excellence Don José de Yanguas y Messía, son Ministre d'Etat,

Lesquels, après s'être fait connaître leurs pleins pouvoirs reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1. Les Parties contractantes s'engagent à soumettre à une procédure de conciliation les litiges, de quelque nature qu'ils

The Swiss Federal Council and His Majesty the King of Spain, being desirous of strengthening the ties of friendship which unite the two countries and of helping to maintain peace in general by applying on the widest possible basis, in their mutual relations, the principles embodied in the Covenant of the League of Nations and particularly in Article XIII;

Acting in the spirit of Article XXI of the aforesaid Covenant,

Have decided to conclude a general Treaty of conciliation and judicial settlement, and have appointed as their Plenipotentiaries:

The Swiss Federal Council:

M. Maxime de Stoutz, Swiss Envoy Extraordinary and Minister Plenipotentiary in Spain;

His Majesty the King of Spain:

His Excellency Don José de Yanguas y Messía, His Minister of State;

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions.

ARTICLE 1. The Contracting Parties undertake to submit to the procedure of conciliation all disputes of any nature whatever which

<sup>1</sup> See also League of Nations, *Treaty Series*, LX, 24. The Spanish text is also authentic.

soient, qui s'élèveraient entre elles et n'auraient pu être résolus par la voie diplomatique dans un délai raisonnable.

En cas d'échec de la procédure de conciliation, un règlement judiciaire sera recherché conformément aux articles 7 et suivants du présent traité.

Les litiges pour la solution desquels une juridiction spéciale est prévue par d'autres engagements en vigueur entre les Parties contractantes seront, toutefois, portés devant cette juridiction.

ART. 2. Lorsqu'il s'agit d'un litige qui, aux termes de la législation de l'une des Parties, relève de la compétence d'une autorité judiciaire, la Partie défenderesse pourra s'opposer à ce qu'il soit soumis à une procédure de conciliation et, le cas échéant, à un règlement judiciaire, tant qu'il n'aura pas fait l'objet d'une décision définitive de la part de cette autorité judiciaire. Au cas où la Partie demanderesse entendrait contester cette décision judiciaire, le litige devra être soumis à la procédure de conciliation une année au plus tard à compter de cette décision.

ART. 3. Les Parties contractantes institueront une Commission permanente de conciliation, composée de cinq membres.

Les Parties nommeront, à leur gré, chacune un membre et désigneront les trois autres d'un commun accord. Ces trois membres ne devront, ni être des ressortissants des Parties contractantes, ni être domiciliés sur leur territoire ou se trouver à leur service. Les Parties désigneront, d'un commun accord, le Président parmi ces trois membres.

Tant qu'une procédure ne sera pas ouverte, chacune des Parties contractantes pourra révoquer le

may arise between them and which it may not have been possible to settle within a reasonable time by diplomacy.

In the event of the procedure of conciliation proving unsuccessful, judicial settlement shall be sought in conformity with Article 7 *et seq.* of the present Treaty.

Disputes for the solution of which a special procedure is laid down by other agreements in force between the Contracting Parties shall however be subject to such special procedure.

ART. 2. In the case of a dispute which, according to the municipal law of one of the Parties, comes within the jurisdiction of the Courts, the defendant Party may oppose the submission of the dispute to a procedure of conciliation or if necessary, to a judicial settlement, so long as no final judgment has been given by the court in question. Should the plaintiff Party desire to contest this decision, the procedure of conciliation must be applied to the dispute within a period of one year reckoned from the date of the decision.

ART. 3. The Contracting Parties shall establish a permanent Conciliation Commission consisting of five members.

Each Party shall appoint one member of its own choice, the other three being appointed by agreement between the Parties. The three latter members may not be nationals of the Contracting Parties, or be domiciled in their territories or be employed in their service. The Contracting Parties shall, by agreement, appoint one of these three members as President.

So long as no proceedings have been begun, either Contracting

commissaire nommé par elle et lui désigner un successeur, comme aussi retirer son consentement à la nomination de chacun des trois membres désignés en commun. Dans ce cas, il y a lieu de procéder sans délai à la nomination des membres dont le mandat a pris fin.

Il sera pourvu au remplacement des commissaires selon le mode fixé pour leur nomination.

Pendant la durée effective de la procédure, les membres nommés d'un commun accord recevront une indemnité dont le montant sera arrêté entre les Parties contractantes et supporté par elles par parts égales. Par contre, chaque Partie fixera et assumera elle-même l'indemnité du membre de la Commission nommé par elle.

Chaque Partie supportera une part égale des frais généraux de la Commission.

La Commission sera constituée dans les six mois qui suivront l'échange des ratifications du présent traité. Elle se réunira au lieu désigné par son Président.

Si la nomination des membres à désigner en commun n'intervient pas dans les six mois à compter de l'échange des ratifications ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, il sera procédé aux nominations conformément à l'article 45 de la Convention de La Haye pour le règlement pacifique des conflits internationaux du 18 Octobre 1907.

ART. 4. Sauf convention contraire, la procédure de conciliation sera régie par la Convention de La Haye pour le règlement pacifique des conflits internationaux du 18 Octobre 1907.

ART. 5. La commission de conciliation pourra être saisie par une

Party may revoke the appointment of its Commissioner and appoint a successor, and may also withdraw its consent to the appointment of any of the three Commissioners appointed jointly. In this case the Commissioners whose mandates have been withdrawn shall be replaced without delay.

The method of replacing commissioners shall be the same as that governing their appointment.

For the actual duration of the procedure, the jointly appointed Commissioners shall receive an allowance, to be fixed by an arrangement between the Contracting Parties and borne by them in equal shares. On the other hand, each Party shall fix and be responsible for the allowance of the Commissioners appointed by itself.

The general expenses of the Commission shall be borne by the Contracting Parties in equal shares.

The Commission shall be constituted within six months after the exchange of ratifications of the present Treaty. It shall meet in the place appointed by its President.

If the appointment of the members to be nominated jointly is not made within six months as from the exchange of ratifications, or in the case of replacement, within three months after the vacancy occurs, these appointments shall be made in conformity with Article 45 of The Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 4. Failing any special agreement to the contrary, the procedure of conciliation shall be governed by the rules laid down in The Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 5. The Commission may be seized of a question by one of

seule des Parties. Celle-ci notifiera sa demande au Président de la Commission et à la Partie adverse.

La Commission peut cependant offrir d'elle-même son concours, si son Président et deux de ses membres y consentent.

Les Parties contractantes s'engagent à faciliter, dans tous les cas et sous tous les rapports, les travaux de la Commission et, en particulier, à user de tous les moyens dont elles disposent, d'après leurs législations, pour l'investir des mêmes compétences que leurs tribunaux suprêmes en ce qui concerne la citation, l'audition de témoins ou d'experts, ainsi que les descentes sur les lieux.

ART. 6. La Commission de conciliation aura pour tâche d'examiner les questions particulières qui lui sont soumises, de consigner le résultat de son enquête dans un rapport destiné à élucider les questions de fait et de faciliter ainsi la solution des litiges. Dans son rapport, elle précisera les points controversés que soulèvent ces questions et fera suivre son exposé des recommandations susceptibles de provoquer une entente entre les Parties.

Le rapport devra être présenté dans les six mois à compter du jour où la Commission aura été saisie, à moins que les Parties contractantes ne décident d'abrégier ou de proroger ce délai. Il devra être établi en trois exemplaires, dont un sera remis à chacune des Parties et le troisième conservé dans les archives de la Commission.

La Commission fixera le délai dans lequel les Parties auront à se prononcer à l'égard de ses recommandations, ainsi que le délai jusqu'à l'expiration duquel elles pourront, en cas d'échec de la procédure de conciliation, soumettre le dif-

the Parties, who shall notify its request to the President of the Commission and the opposing Party.

The Commission may, however, offer its services should its President and two of the Commissioners agree to such a course of action.

The Contracting Parties undertake in all circumstances to give all possible assistance to the Commission in its work and in particular, to employ all the means they possess, under their municipal law, to invest it with the same powers as their Supreme Courts as regards the calling and hearing of witnesses and experts, and the carrying out of investigations *in situ*.

ART. 6. It shall be the duty of the Conciliation Commission to consider the various questions submitted to it, and to embody the results of its enquiry in a report, the object of which shall be to elucidate questions of fact and thus facilitate the settlement of disputes. In its report it shall state the controversial issues which the aforesaid questions raise, and shall then proceed to make such recommendations as would, in its opinion, be calculated to lead to an agreement between the Parties.

The Commission's report shall be presented within six months from the date on which the dispute is submitted to it, unless the Contracting Parties decide to curtail or extend this period. The report shall be drawn up in triplicate, one copy being sent to each of the Parties and the third being filed in the archives of the Commission.

The Commission shall prescribe a period within which the Parties will be required to take their decision as regards its recommendations, and also a period within which the Parties may, in case the

férend à un règlement judiciaire. Ces deux délais ne pourront toutefois excéder, le premier, la durée de six mois, le second, la durée de trois mois.

Le rapport de la Commission n'aura, ni en ce qui concerne l'exposé des faits, ni en ce qui concerne les considérations juridiques, le caractère d'une sentence définitive obligatoire.

ART. 7. Si les Parties n'acceptent pas les recommandations de la Commission de conciliation, chacune d'elles pourra, dans le délai fixé par cette dernière, demander que le litige soit soumis à la Cour permanente de Justice internationale.

Dans le cas où, de l'avis de la Cour, le litige ne serait pas d'ordre juridique, les Parties conviennent qu'il sera tranché *ex aequo et bono*.

ART. 8. Les Parties contractantes pourront, toutefois, convenir de déférer tout différend à un tribunal arbitral constitué conformément aux articles 55 et suivants de la Convention pour le règlement pacifique des conflits internationaux du 18 Octobre 1907 ou conformément à tout autre accord intervenu entre elles.

ART. 9. Les Parties contractantes établiront, en s'en tenant aux dispositions du Statut et du Règlement de la Cour permanente de Justice internationale, un compromis en vue de déterminer l'objet du litige, les compétences particulières qui pourraient être dévolues au Tribunal, ainsi que toutes les conditions dont les Parties sont convenues.

Le compromis sera établi par échange de notes entre les Gouvernements des Parties contrac-

procedure of conciliation should fail, submit the dispute to judicial settlement. These periods may not, however, exceed a limit of six months, in the case of the first period, and three months, in the case of the second period.

The Commission's report shall not be in the nature of a compulsory award, as regards either the statement of facts or the legal considerations.

ART. 7. Should the Parties not accept the recommendations of the Commission of Conciliation, either of them may, within the period prescribed by the latter, request that the dispute be submitted to the Permanent Court of International Justice.

If in the opinion of the Court the case is not of a juridical nature, the Parties shall agree to its being settled *ex aequo et bono*.

ART. 8. Nevertheless, the Contracting Parties may decide to refer any dispute to a Court of Arbitration established in conformity with Article 55 *et seq.* of the Convention of October 18, 1907, for the Pacific Settlement of International Disputes, or in conformity with any other agreement concluded between them.

ART. 9. On the basis of the Statute and Rules of the Permanent Court of International Justice, the Contracting Parties shall draw up a special agreement (*compromis*) specifying the subject of the dispute, the particular competence that might devolve on the Permanent Court of International Justice, and any other conditions agreed upon between themselves.

The Agreement shall be constituted by an Exchange of Notes between the Governments of the

tantes et sera interprété en tous points par la Cour de Justice.

Si le compromis n'est pas arrêté dans les trois mois à compter du jour où l'une des Parties a été saisie d'une demande aux fins de règlement judiciaire, chaque Partie pourra saisir la Cour de Justice par voie de simple requête.

ART. 10. Si, dans une sentence rendue conformément au présent traité, il est établi qu'une décision d'une instance judiciaire, ou de toute autre autorité relevant de l'une des Parties contractantes, se trouve entièrement ou partiellement en opposition avec le droit des gens, et si le droit constitutionnel de cette Partie ne permet pas ou ne permet qu'imparfaitement d'effacer par voie administrative les conséquences de la décision dont il s'agit, la sentence accordera à la Partie lésée une satisfaction équitable d'un autre ordre.

ART. 11. La sentence rendue par la Cour permanente de Justice internationale sera exécutée de bonne foi par les Parties.

Durant le cours de la procédure de conciliation ou de la procédure judiciaire, les Parties contractantes s'engagent à renoncer, autant que possible, à toute mesure susceptible d'avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission de conciliation ou sur l'exécution de la sentence.

ART. 12. Les contestations qui surgiraient au sujet de l'interprétation ou de l'exécution du présent traité seront, sauf convention contraire, soumises directement à la Cour Permanente de Justice Internationale par voie de simple requête.

Contracting Parties and all points contained therein shall be interpreted by the Court of International Justice.

If the Agreement is not drawn up within three months from the day on which one of the Parties was requested to submit the matter for judicial settlement, either Party may bring the question before the Court of International Justice by a simple application.

ART. 10. If, in a decision rendered in conformity with the present Treaty, it is found that a ruling of a court of law or of any other authority of one of the Contracting Parties is wholly or partly at variance with international law, and should the constitutional law of that Party not allow, or only inadequately allow, the cancellation of this decision by administrative procedure, the Party prejudiced shall be granted equitable satisfaction in some other form.

ART. 11. The judgment given by the Permanent Court of International Justice shall be acted upon by the Parties in good faith.

During the procedure of conciliation or the judicial procedure, the Contracting Parties shall undertake to abstain as far as possible from all measures which might prejudicially affect the acceptance of the proposals of the Conciliation Commission, or the execution of the judgment.

ART. 12. Any disputes which may arise as to the interpretation or the execution of the present Treaty, shall, in the absence of any agreement to the contrary, be submitted direct to the Permanent Court of International Justice by simple application.

# POST-WAR TREATIES

**ART. 13.** Le présent traité sera ratifié dans le plus bref délai possible et les instruments de ratification en seront échangés à Berne.

Le traité est conclu pour la durée de dix ans à compter de l'échange des ratifications. S'il n'est pas dénoncé six mois avant l'expiration de ce terme, il demeurera en vigueur pour une nouvelle période de cinq ans, et ainsi de suite.

Si une procédure de conciliation ou une procédure judiciaire devait être pendante lors de l'expiration du présent traité, elle suivra son cours conformément aux dispositions du présent traité ou de toute autre convention que les Parties contractantes seraient convenues de lui substituer.

En foi de quoi, les Plénipotentiaires ont signé le présent traité.

Fait, en double exemplaire, à Madrid, le vingt Avril mil neuf cent vingt six.

M de Stoutz

José de Yanguas

**ART 13** The present Treaty shall be ratified as soon as possible, and the instruments of ratification shall be exchanged at Berne.

The Treaty shall remain in force for a period of ten years from the date of the exchange of ratifications. Unless denounced six months before the expiration of this period, it shall remain in force for a further period of five years, and similarly thereafter.

If a procedure of conciliation or a judicial procedure is pending at the time of the expiration of the present Treaty, it shall pursue its course in accordance with the provisions of the present Treaty or of any other Convention which the Contracting Parties may have agreed to substitute therefor.

In faith whereof, the Plenipotentiaries have signed the present Treaty.

Done in duplicate at Madrid, the twentieth day of April, One thousand nine hundred and twenty-six.

M de Stoutz  
José de Yanguas

## PERMANENT COMMISSION OF CONCILIATION

### *President appointed by both Parties*

LORD HARDINGE OF PENSHURST, Privy Councillor, former Viceroy of India (*British*)

### *Members appointed by both Parties*

COUNT BONIN-LONGARI, Senator, former Italian Ambassador to France (*Italian*)

COUNT MOITKE, former Minister for Foreign Affairs of Denmark (*Danish*)

### *Member appointed by Spain*

LUIS PUIG DE FERNÁNDEZ, former Spanish Ambassador to Germany and to Great Britain (*Spanish*)

### *Member appointed by Switzerland*

PAUL SCHERRER, Barrister, former Member of the Swiss Council of States (*Swiss*)

## No. 64

DENMARK-POLAND: TREATY OF CONCILIATION  
AND ARBITRATION

Signed at Copenhagen April 23, 1926; ratifications exchanged April 4, 1927.

Original text from Poland, *Dziennik Ustaw*, 1927, No. 40;<sup>1</sup> English translation from League of Nations, *Treaty Series*, LXI, 247-255.

(Translation)

Le Président de la République de Pologne et Sa Majesté le Roi de Danemark et d'Islande

animés du désir de développer les relations amicales qui unissent la Pologne et le Danemark,

décidés à donner, dans leurs rapports réciproques, une large application aux principes dont s'inspire la Société des Nations,

ont résolu de conclure un Traité de Conciliation et d'Arbitrage et ont nommé à cet effet leurs Plénipotentiaires, savoir:

Le Président de la République de Pologne:

Monsieur Constantin Jordan Rozwadowski, Envoyé Extraordinaire de Pologne en Danemark, et

Monsieur Julian Makowski, Docteur en Droit, Chef de Division au Ministère des Affaires Étrangères, et

Sa Majesté le Roi de Danemark et d'Islande:

Monsieur Carl Poul Oskar Comte Moltke, Son Ministre des Affaires Étrangères,

lesquels, après s'être fait connaître leurs pleins pouvoirs, reconnus en bonne et due forme, ont convenu des dispositions suivantes:

His Majesty the King of Denmark and Iceland and the President of the Polish Republic; being desirous of developing the friendly relations which unite Denmark and Poland, and having resolved to embody in their reciprocal relations the principles of the League of Nations, have decided to conclude a Treaty of Conciliation and Arbitration and have appointed for that purpose as their Plenipotentiaries:

His Majesty the King of Denmark and Iceland:

M. Carl Poul Oscar Count Moltke, Minister for Foreign Affairs; and

The President of the Polish Republic:

M. Constantin Jordan Rozwadowski, Polish Envoy Extraordinary and Minister Plenipotentiary in Denmark, and

M. Julian Makowski, Doctor of Laws, Head of Department in the Ministry of Foreign Affairs:

Who having communicated their full powers, found in good and due form, have agreed upon the following provisions:

## PARTIE I

ARTICLE 1<sup>er</sup>. (1) Les Parties Contractantes s'engagent à soumettre à la procédure de conciliation ou à

## PART I

ARTICLE 1. (1) The High Contracting Parties undertake to submit to the procedure of conciliation

<sup>1</sup> See also League of Nations, *Treaty Series*, LXI, 246.



la procédure d'arbitrage tous les différends qui pourraient s'élever entre la Pologne et le Danemark et n'auraient pu être réglés par la voie diplomatique dans un délai raisonnable.

(2) Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres conventions en vigueur entre les Parties Contractantes seront réglées conformément aux dispositions de ces conventions.

ART. 2. (1) S'il s'agit d'une contestation dont l'objet, d'après la législation interne de l'une des Parties, relève de la compétence des tribunaux nationaux de celle-ci, y compris les tribunaux administratifs, cette contestation ne sera soumise à l'une des procédures prévue par le présent Traité qu'après jugement passé en force de chose jugée, rendu par l'autorité judiciaire nationale compétente.

(2) La demande de conciliation devra, dans ce cas, être formulée une année au plus tard à compter de la date du jugement définitif.

ART. 3. (1) Tout différend susceptible d'être réglé de la manière indiquée ci-dessus sera soumis à la procédure de conciliation, à moins que les Parties ne conviennent de le soumettre immédiatement à l'arbitrage.

(2) Au cas où le rapport élaboré par la Commission permanente de conciliation n'aurait pas été accepté par les deux Parties, le différend sera soumis à l'arbitrage, si l'une des Parties le demande.

ART. 4. (1) Dans les six mois qui suivront l'échange des ratifications du présent Traité, les Parties Contractantes institueront une

or of arbitration all disputes arising between Denmark and Poland which it has not been found possible to settle by diplomacy within a reasonable time.

(2) Disputes for the solution of which a special procedure is provided in other Conventions in force between the Contracting Parties shall be settled in accordance with the provisions of those Conventions.

ART. 2. (1) In the case of a dispute the occasion of which, according to the municipal law of one of the Parties, falls within the competence of the national courts of such Party, including the administrative courts, the matter in dispute shall not be submitted to any of the procedures laid down in the present Treaty until a judgment with final effect has been pronounced by the competent national judicial authority.

(2) The request for conciliation must in the above case be put forward within one year at latest from the date of the final judgment.

ART. 3. (1) Any dispute capable of being settled in the manner set forth above shall be submitted to the procedure of conciliation, unless the Parties agree to submit immediately to arbitration.

(2) Should the report drawn up by the Permanent Conciliation Commission not be accepted by both Parties, the dispute shall be submitted to arbitration, if either of the Parties so requests.

ART. 4. (1) In the six months following the exchange of ratifications of the present Treaty, the Contracting Parties shall set up a

Commission permanente de conciliation, composée de cinq membres.

(2) Les Parties nommeront chacune deux membres, dont l'un peut être choisi parmi ses propres nationaux. Le cinquième, qui remplit les fonctions de Président, doit appartenir à une autre nationalité qu'à celles des autres membres de la Commission. Ce dernier ne devra avoir son domicile sur le territoire des Parties Contractantes, ni se trouver à leur service.

(3) Si la nomination du Président n'intervenait pas dans ledit délai de six mois ou, en cas de remplacement, dans les trois mois, à compter de la vacance du siège, le Président de la Confédération Suisse sera, à défaut d'autre entente, prié de procéder à la désignation nécessaire.

ART. 5. (1) Les Commissaires seront nommés pour trois ans; leur mandat est renouvelable. Si, à l'expiration du mandat d'un membre, il n'est pas pourvu à son remplacement, son mandat est censé renouvelé pour une période de trois ans; toutefois, sur la demande de l'une des Parties, les fonctions du Président doivent cesser à la fin de son mandat. Les membres de la Commission resteront en fonctions jusqu'à leur remplacement, et, dans tous les cas, jusqu'à l'achèvement de leurs travaux au moment de l'expiration de leur mandat.

(2) Il sera pourvu dans le plus bref délai aux vacances qui viendraient à se produire par suite de décès, de démission ou de quelques autres empêchements, en suivant le mode fixé pour les nominations.

ART. 6. (1) La Commission permanente de conciliation sera saisie

Permanent Conciliation Commission consisting of five members.

(2) Each Party shall appoint two members, one of whom may be a national of its own State. The fifth, who shall be President, must be a national of a State other than those to which the other members of the Commission belong and must neither be domiciled in the territory of the Contracting Parties nor be in their service.

(3) If a President has not been appointed within the said period of six months, or, in the event of his replacement, within three months from the date when the office fell vacant, the President of the Swiss Confederation shall, failing any other agreement, be requested to make the necessary appointment.

ART. 5. (1) The Commissioners are appointed for three years and their mandate is renewable. If, when a member's term of office expires, no arrangement has been made for replacing him his appointment shall be deemed to be renewed for a period of three years; if either of the Parties so requests, however, the President shall cease to exercise his duties as soon as his term of office expires. The members of the Commission shall remain in office until they are replaced, and in any case until they have completed the work on which they are engaged at the time when their term of office expires.

(2) Vacancies which may occur as a result of death, resignation or any other cause shall be filled within the shortest possible time in the manner fixed for the nominations.

ART. 6. (1) The Permanent Conciliation Commission shall be

par voie de requête adressée à son Président par les deux Parties agissant d'un commun accord ou, à défaut, par l'une ou l'autre des Parties

(2) La requête, après avoir exposé l'objet du litige, contiendra l'invitation à la Commission de proposer toutes mesures propres à conduire à une conciliation

(3) Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à la Partie adverse

ART 7 (1) Dans un délai de quinze jours à partir de la date où une contestation serait portée devant la Commission permanente de conciliation, chacune des Parties pourra, pour l'examen de cette contestation, remplacer l'un des membres désignés par elle par une personne possédant une compétence spéciale dans la matière

(2) La Partie qui userait de ce droit en fera immédiatement la notification à l'autre. Celle-ci aura dans ce cas la faculté d'agir de même dans un délai de quinze jours à partir de la date où la notification lui sera parvenue

ART 8 (1) La Commission permanente de conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer

(2) A la fin de ses travaux, la Commission dressera un procès-

informed by means of a request addressed to its President by the two Parties acting in agreement, or, in the absence of such agreement, by one or other of the Parties

(2) The request after having given an account of the subject of the dispute, shall contain the invitation to the Commission to take all necessary measures with a view to arriving at an amicable settlement

(3) If the request emanates from only one of the Parties notification thereof shall be made without delay to the other Party

ART 7 (1) Within fifteen days from the date on which a dispute shall have been brought before the Permanent Conciliation Commission either Party may, for the examination of the particular dispute, replace one of the members nominated by it by a person possessing special competence in the matter

(2) The Party making use of this right shall immediately inform the other Party. The latter shall in that case be entitled to take similar action within fifteen days from the date on which it received notification

ART 8 (1) The task of the Permanent Conciliation Commission shall be to elucidate questions in dispute to collect with that object all necessary information and endeavour to bring the Parties to an agreement. It may after the case has been examined, inform the Parties of the terms of such settlement which it may deem suitable to it and lay down a period within which they are to make their decision

(2) At the close of its labours the Commission shall draw up a

verbal constatant, suivant le cas, soit que les Parties se sont arrangées, et, s'il y a lieu, les conditions de cet arrangement, soit que les Parties n'ont pu être conciliées. L'avis motivé des membres restés en minorité doit être consigné dans le procès-verbal.

(3) Les travaux de la Commission devront être terminés dans le délai de six mois à compter du jour de la première séance de la Commission. Les Parties, d'un commun accord, pourront proroger ou abréger ce délai.

(4) Le procès verbal de la Commission n'aura, ni en ce qui concerne l'exposé des faits ni en ce qui concerne les considérations juridiques, le caractère d'une sentence arbitrale.

ART 9 (1) La procédure de vant la Commission permanente de conciliation sera contradictoire.

(2) La Commission réglera elle-même sa procédure, en tenant compte, sauf décision contraire prise à l'unanimité, des dispositions contenues au Titre III de la Convention de la Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

(3) Les délibérations de la Commission auront lieu à huis clos, à moins que la Commission, d'accord avec les Parties, n'en décide autrement.

ART 10 (1) La Commission permanente de conciliation ne pourra prendre des décisions qu'en présence de tous ses membres dûment convoqués.

(2) Sauf dispositions contraires du présent Traité, les décisions de la Commission seront prises à la majorité des voix. Chaque mem-

report stating, as the case may be, either that the Parties have come to an agreement, and if need arises, the terms of the agreement, or that it has been impossible to effect a settlement. The opinion of any minority, accompanied by a statement of reasons, shall be included in this report.

(3) The Commission shall finish its work within six months from the date of its first meeting. The Parties may, by mutual agreement, lengthen or shorten this period.

(4) The Commission's report shall not be in the nature of an arbitral award either as regards the statement of the facts or as regards the legal considerations.

ART 9 (1) The procedure before the Permanent Conciliation Commission shall provide for both Parties being heard.

(2) The Commission shall itself determine its procedure, being guided, unless it unanimously decides to the contrary, by the provisions of Chapter III of The Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes.

(3) The discussions of the Commission shall take place in private unless the Commission, with the consent of the Parties, shall decide otherwise.

ART 10 (1) The decisions of the Permanent Conciliation Commission shall not be valid unless all the members were duly convened.

(2) Unless otherwise provided under the present Treaty, the decisions of the Commission shall be taken by majority vote. Each

bre disposera d'une voix, celle du Président étant décisive en cas de partage.

ART. 11. (1) La Commission permanente de conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son Président; ce lieu doit être situé en dehors des territoires des Parties.

ART. 12. (1) Les travaux de la Commission permanente de conciliation ne pourront être rendus publics qu'en vertu d'une décision de la Commission prise à l'unanimité et avec l'assentiment des Parties.

ART. 13. (1) Les Parties seront représentées auprès de la Commission permanente de conciliation par des agents ayant mission de servir d'intermédiaire entre Elles et la Commission; Elles pourront en outre se faire assister par des conseils et experts nommés par Elles à cet effet.

(2) La Commission aura de son côté la faculté de demander des explications orales aux agents, conseils et experts des deux Parties, ainsi que la communication par le Gouvernement respectif de la déposition de toute personne dont le témoignage serait considéré par elle comme pertinent.

ART. 14. (1) Les Parties Contractantes fourniront à la Commission permanente de conciliation toutes les informations utiles et lui faciliteront, à tous égards et dans toute la mesure du possible, l'accomplissement de sa tâche.

## PARTIE II

ART. 15. (1) Lorsque, en vertu des dispositions de l'article premier ou trois du présent Traité, un différend sera soumis à l'arbitrage, le

member shall have one vote, the President having a casting vote.

ART. 11. (1) The Permanent Conciliation Commission shall meet, in the absence of agreement by the Parties to the contrary, at a place selected by its President; this place must be situated outside the territory of either Party.

ART. 12. The proceedings of the Permanent Conciliation Commission shall only be made public by unanimous decision of the Commission and with the consent of the Parties.

ART. 13. (1) The Parties shall be represented before the Permanent Conciliation Commission by agents acting as intermediaries between the Parties and the Commission; the Parties may further be assisted by advisers and by experts appointed by them for that purpose.

(2) The Commission shall for its part have the right to demand verbal statements from the agents, advisers and experts of the two Parties and to request the respective Governments to communicate any person's evidence which it may consider to be pertinent to the proceedings.

ART. 14. The Contracting Parties shall supply the Permanent Conciliation Commission with all necessary information and shall facilitate its work as far as possible and in every respect.

## PART II

ART. 15. (1) When a dispute is submitted to arbitration in accordance with the provisions of Article 1 or 3 of the present Treaty, the

tribunal arbitral sera établi par l'accord des Parties.

(2) A défaut de constitution du tribunal par l'accord des Parties dans un délai de trois mois à compter du jour, où l'une des Parties aura adressé à l'autre la demande d'arbitrage, il sera procédé de la manière suivante:

Chaque Partie nommera deux arbitres dont l'un devra être pris sur la liste des membres de la Cour permanente d'arbitrage et choisi à l'exclusion de ses propres nationaux. Les arbitres ainsi désignés choisiront ensemble le président du tribunal. En cas de partage des voix le Président de la Confédération Suisse sera prié de procéder à la désignation nécessaire.

ART. 16. (1) Lorsqu'il y aura lieu à un arbitrage entre Elles, les Parties Contractantes s'engagent à conclure, dans un délai de trois mois à compter du jour, où l'une des Parties aura adressé à l'autre la demande d'arbitrage, un compromis spécial concernant l'objet du litige, ainsi que les modalités de la procédure.

(2) Si ce compromis ne peut être conclu dans le délai prévu, il y sera obligatoirement suppléé conformément à la procédure prévue au Titre IV de la Convention de la Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux, qui régira, dans ce cas, le recours à l'arbitrage.

(3) Dans le cas de l'Article 15, alinéa 2, les délais prévus ci-dessus ne seront comptés qu'à partir de la constitution du tribunal.

Court of Arbitration shall be set up by agreement between the two Parties.

(2) If the Court of Arbitration is not set up by agreement between the Parties within a period of three months from the date on which one of the Parties has addressed the request for arbitration to the other Party, the following procedure shall be adopted:

Each Party shall appoint two arbitrators, one of whom must be on the list of members of the Permanent Court of Arbitration but must not be a national of the Party appointing him. The arbitrators thus appointed shall themselves choose the President of the Court. If the votes for the Presidency are equally divided, the President of the Swiss Confederation shall be requested to make the necessary appointment.

ART. 16. (1) Whenever a question has to be decided by arbitration, the Contracting Parties undertake to conclude, within three months reckoned from the day on which either Party has addressed a request for arbitration to the other Party, a special agreement regarding the subject of the dispute and the methods of procedure.

(2) If this agreement cannot be concluded within the period fixed, the Parties shall be bound to substitute for it the procedure laid down in Chapter IV of The Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes, which shall in this case govern the recourse to arbitration.

(3) In the circumstances referred to in Article 15, paragraph 2, the periods provided for above shall be reckoned only from the date on which the Court was constituted.

ART. 17. (1) La sentence arbitrale est obligatoire et doit être exécutée de bonne foi par les Parties.

(2) Si, toutefois, la sentence établissait qu'une décision d'une instance judiciaire ou de toute autre autorité relevant de l'une des Parties Contractantes se trouve entièrement ou partiellement en opposition avec le droit international, et si le droit constitutionnel de cette Partie ne permettait d'effacer ou de n'effacer qu'imparfaitement, par voie administrative, les conséquences de la décision dont il s'agit, il sera accordé à la Partie lésée une satisfaction équitable d'un autre ordre.

#### DISPOSITIONS GÉNÉRALES

ART. 18. (1) Pendant la durée effective de la procédure de conciliation ou d'arbitrage, le membre de la Commission permanente de conciliation désigné en commun et les membres du tribunal arbitral recevront une indemnité dont le montant sera arrêté par les Parties Contractantes.

(2) Chaque Partie supportera ses propres frais et une part égale des frais communs de la Commission et du Tribunal.

ART. 19. (1) Durant le cours de la procédure de conciliation et de la procédure arbitrale, les Parties Contractantes s'abstiendront de toute mesure pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission permanente de conciliation ou sur l'exécution de la sentence arbitrale.

ART. 20. (1) Les contestations qui surgiraient au sujet de l'interprétation ou de l'exécution du présent Traité seront soumises directement à la Cour permanente de

ART. 17. (1) The arbitral award shall be binding and shall be carried out by the Parties in good faith.

(2) If, however, the award establishes the fact that a decision of a judicial or other authority of one of the Contracting Parties is wholly or partially at variance with International Law, and if the municipal law of that Party precludes the annulment or only allows of the partial annulment, through administrative channels, of the effects of such a decision, the injured Party shall be accorded equitable satisfaction in some other manner.

#### GENERAL PROVISIONS

ART. 18. (1) While conciliation or arbitration proceedings are actually in progress, the member of the Permanent Conciliation Commission nominated by common agreement and the members of the Court of Arbitration shall receive allowances on a scale to be fixed by the Contracting Parties.

(2) Each Party shall bear its own expenses and an equal share of the common expenses of the Commission or of the Court.

ART. 19. While conciliation or arbitration proceedings are in progress, the Contracting Parties shall refrain from any act which may tend to hinder the acceptance of the proposals of the Permanent Conciliation Commission or the execution of the arbitral award.

ART. 20. Any disputes which may arise regarding the interpretation or execution of the present Treaty shall be submitted directly, by simple application, to the Per-

Justice internationale, par voie de simple requête.

ART. 21. (1) Le présent Traité sera ratifié. Les instruments de ratification en seront échangés à Varsovie, dans le plus bref délai possible.

(2) Le Traité entrera en vigueur le trentième jour après l'échange des ratifications et aura une durée de trois années. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il demeurera en vigueur pendant une nouvelle période de trois années, et ainsi de suite.

En foi de quoi, les Plénipotentiaires ont signé le présent Traité et y ont apposé leurs cachets.

Fait à Copenhague, le 23 avril 1926.

K. Jordan Rozwadowski  
Dr. Julian Makowski  
C. Moltke

manent Court of International Justice.

ART. 21. (1) The present Treaty shall be ratified. The instruments of ratification shall be exchanged at Warsaw as soon as possible.

(2) The Treaty shall come into force on the thirtieth day after the exchange of ratifications, and shall remain in force for three years. If it is not denounced six months before this period expires, it shall remain in force for a further period of three years, and so on.

In faith whereof the Plenipotentiaries have signed the present Treaty and thereto affixed their seals.

Done at Copenhagen, April 23, 1926.

C. Moltke  
K. Jordan Rozwadowski  
Dr. Julian Makowski

#### PERMANENT COMMISSION OF CONCILIATION

##### *President appointed by both Parties*

DR. JAMES BROWN SCOTT, President of the American Institute of International Law. (*American.*)

##### *Members appointed by Denmark*

L. MOWINCKEL, Prime Minister and Minister for Foreign Affairs of Norway. (*Norwegian.*)

H. A. BERNHOFT, Chamberlain, Danish Minister at Paris. (*Danish.*)

##### *Members appointed by Poland*

N. POLITIS, ex-Minister for Foreign Affairs of Greece. (*Greek.*)

JEAN KUCHARZEWSKI, Professor, former Prime Minister of Poland. (*Polish.*)



## No. 65

BELGIUM-SWEDEN: TREATY OF CONCILIATION,  
ARBITRATION, AND COMPULSORY  
ADJUDICATION

Signed at Brussels April 30, 1926; ratifications exchanged September 27, 1927.

Original text from Sweden, *Överenskommelser med främmande makter*, 1927, No. 16;<sup>1</sup>  
English translation from League of Nations, *Treaty Series*, LXVII, 93-103.

(Translation)

Sa Majesté le Roi de Suède et Sa Majesté le Roi des Belges, animés du désir de développer les relations amicales qui unissent les deux pays,

décidés à donner, dans leurs rapports réciproques, une large application aux principes dont s'inspire la Société des Nations,

ont résolu de conclure un Traité de conciliation et d'arbitrage et ont nommé à cet effet pour leurs Plénipotentiaires, savoir:

Sa Majesté le Roi de Suède:  
Monsieur G. F. N. de Dardel,  
Son Envoyé extraordinaire et Ministre plénipotentiaire en Belgique;  
Sa Majesté le Roi des Belges:

Monsieur Vandervelde, Son Ministre des Affaires Étrangères;  
lesquels, après avoir échangé leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

PARTIE I

ARTICLE 1<sup>er</sup>. Toutes contestations entre la Suède et la Belgique, de quelque nature qu'elles soient, au sujet desquelles les Parties se contesteraient réciproquement un droit, et qui n'auraient pu être

His Majesty the King of Sweden and His Majesty the King of the Belgians,

Being desirous of promoting the friendly relations which unite the two countries,

Being determined to give a wide application in the relations between the two countries to the principles laid down by the League of Nations,

Have agreed to conclude a Treaty of Conciliation and Arbitration, and for this purpose have appointed as their Plenipotentiaries, the following:

His Majesty the King of Sweden:  
M. G. F. N. de Dardel, His Envoy Extraordinary and Minister Plenipotentiary in Belgium;

His Majesty the King of the Belgians:

M. Vandervelde, His Minister for Foreign Affairs;

Who, having exchanged their full powers, found in good and due form, have agreed as follows:

PART I

ARTICLE 1. All disputes of every kind between Sweden and Belgium with regard to which the Parties are in conflict as to their respective rights, and which it may not be possible to settle amicably by the

<sup>1</sup> See also League of Nations, *Treaty Series*, LXVII, 92.

réglées à l'amiable par les procédés diplomatiques ordinaires, seront soumises pour jugement à la Cour permanente de Justice internationale, ainsi qu'il est prévu ci-après.

Cet engagement ne s'applique qu'aux contestations qui s'élèveraient après la ratification du présent Traité au sujet de situations ou de faits postérieurs à cette ratification.

Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres conventions en vigueur entre la Suède et la Belgique seront réglées conformément aux dispositions de ces conventions.

ART. 2. Avant toute procédure devant la Cour permanente de Justice internationale, la contestation pourra être, d'un commun accord entre les Parties, soumise à fin de conciliation à une Commission internationale permanente, dite Commission permanente de conciliation, constituée conformément au présent Traité.

ART. 3. La Commission permanente de conciliation prévue à l'article 2 sera composée de cinq membres, qui seront désignés comme il suit, savoir: le Gouvernement suédois et le Gouvernement belge nommeront chacun un commissaire choisi parmi leurs nationaux respectifs et désigneront, d'un commun accord, les trois autres commissaires parmi les ressortissants de tierces Puissances; ces trois commissaires devront être de nationalité différente et, parmi eux, les Gouvernements suédois et belge désigneront le Président de la Commission.

Les commissaires sont nommés pour trois ans; leur mandat est renouvelable. Ils resteront en fonctions jusqu'à leur remplacement et, dans tous les cas, jusqu'à l'achève-

normal methods of diplomacy, shall be submitted for decision to the Permanent Court of International Justice, as laid down hereafter.

This engagement applies only to disputes arising out of situations or events subsequent to the ratification of the present Treaty.

Disputes for the settlement of which a special procedure is laid down in other Conventions in force between Sweden and Belgium shall be settled in conformity with the provisions of those Conventions.

ART. 2. Before any resort is made to procedure before the Permanent Court of International Justice, the dispute may, by agreement between the Parties, be submitted, with a view to amicable settlement, to a Permanent International Commission, styled the Permanent Conciliation Commission, constituted in accordance with the present Treaty.

ART. 3. The Permanent Conciliation Commission mentioned in Article 2 shall be composed of five members, who shall be appointed as follows, that is to say: the Swedish Government and the Belgian Government shall each nominate a Commissioner chosen from among their respective nationals, and shall appoint, by common agreement, the three other Commissioners from among the nationals of third Powers; these three Commissioners must be of different nationalities and the Swedish and Belgian Governments shall appoint the President of the Commission from among them.

The Commissioners are appointed for three years and their mandate is renewable. Their appointment shall continue until their

ment de leurs travaux en cours au moment de l'expiration de leur mandat.

Il sera pourvu, dans le plus bref délai, aux vacances qui viendraient à se produire, par suite de décès, de démission ou de quelque autre empêchement, en suivant le mode fixé pour les nominations.

ART. 4. La Commission permanente de conciliation sera constituée dans les six mois qui suivront l'entrée en vigueur du présent Traité.

Si la nomination des commissaires à désigner en commun n'intervenait pas dans ledit délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, le Président de la Confédération suisse sera, à défaut d'autre entente, prié de procéder aux désignations nécessaires.

ART. 5. La Commission permanente de conciliation sera saisie, par voie de requête adressée au Président, par les deux Parties agissant d'un commun accord, ou, à défaut, par l'une ou l'autre des Parties.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci, sans délai, à la Partie ad-

replacement, and, in any case, until the termination of the work in hand at the moment of the expiry of their mandate.

Vacancies which may occur as the result of death, resignation or any other cause, shall be filled within the shortest possible time in the manner fixed for the nominations.

ART. 4. The Permanent Conciliation Commission shall be constituted within six months from the entry into force of the present Treaty.

If the nomination of the Commissioners to be appointed by common agreement should not have taken place within the same period, or, in the case of the filling of a vacancy, within three months from the time when the seat falls vacant, the President of the Swiss Federation shall, in absence of other agreement, be requested to make the necessary appointments.

ART. 5. The Permanent Conciliation Commission shall be informed by means of a request addressed to the President by the two Parties acting in agreement or, in the absence of such agreement, by one or other of the Parties.

The request, after having given a summary account of the subject of the dispute, shall contain the invitation to the Commission to take all necessary measures with a view to arriving at an amicable settlement.

If the request emanates from only one of the Parties, notification thereof shall be made without delay to the other Party.

ART. 6. Dans un délai de 15 jours à partir de la date où le Gouvernement suédois ou le Gouvernement belge aurait porté une contestation devant la Commission

ART. 6. Within fifteen days from the date when the Swedish Government or the Belgian Government shall have brought a dispute before the Permanent Conciliation Com-

permanente de conciliation, chacune des Parties pourra, pour l'examen de cette contestation, remplacer son commissaire par une personne possédant un compétence spéciale dans la matière.

La Partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie; celle-ci aura, dans ce cas, la faculté d'agir de même, dans un délai de 15 jours à partir de la date où la notification lui sera parvenue.

ART. 7. La Commission permanente de conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

À la fin de ses travaux, la Commission dressera un procès-verbal constatant, suivant le cas, soit que les Parties se sont arrangées et, s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la Commission devront, à moins que les Parties en conviennent différemment, être terminés dans le délai de six mois à compter du jour où la Commission aura été saisie du litige.

ART. 8. À moins de stipulation spéciale contraire, la Commission permanente de conciliation réglera elle-même sa procédure, qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la Commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du titre III (Commissions internationales

mission, either Party may, for the examination of the particular dispute, replace its Commissioner by a person possessing special competence in the matter.

The Party making use of this right shall immediately inform the other Party; the latter shall in that case be entitled to take similar action within fifteen days from the date when the notification reaches it.

ART. 7. The task of the Permanent Conciliation Commission shall be to elucidate questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of settlement which seem suitable to it, and lay down a period within which they are to make their decision.

At the close of its proceedings the Commission shall draw up a report stating, as the case may be, either that the Parties have come to an agreement and, if need arises, the terms of the agreement, or that it has been impossible to effect a settlement.

The proceedings of the Commission must, unless the Parties otherwise agree, be terminated within six months from the day on which the Commission shall have been notified of the dispute.

ART. 8. Failing any special provisions to the contrary, the Permanent Conciliation Commission shall lay down its own procedure, which in any case must provide for both Parties being heard. In regard to enquiries, the Commission, unless it decides unanimously to the contrary, shall act in accordance with the provisions of Chapter III (In-

d'enquête) de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 9. La Commission permanente de conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son Président.

ART. 10. Les travaux de la Commission permanente de conciliation ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties.

ART. 11. Les Parties seront représentées auprès de la Commission permanente de conciliation par des agents ayant mission de servir d'intermédiaire entre elles et la Commission; elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraîtra utile.

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties, ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement.

ART. 12. Sauf disposition contraire du présent Traité, les décisions de la Commission permanente de conciliation seront prises à la majorité des voix. Chaque membre disposera d'une voix; en cas de partage, la voix du Président sera décisive.

La Commission ne pourra prendre des décisions portant sur le fond du différend que si tous les membres sont présents.

ART. 13. Les Gouvernements suédois et belge s'engagent à facil-

ternational Commissions of Enquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 9. The Permanent Conciliation Commission shall meet, in the absence of agreement by the Parties to the contrary, at a place selected by its president.

ART. 10. The proceedings of the Permanent Conciliation Commission shall not be public except when a decision to that effect has been taken by the Commission with the consent of the Parties.

ART. 11. The Parties shall be represented before the Permanent Conciliation Commission by agents whose duty it shall be to act as intermediaries between them and the Commission; they may, moreover, be assisted by counsel and experts appointed by them for that purpose, and they may request that all persons whose evidence appears to them useful should be heard.

The Commission, on its side, shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties, as well as from all persons it may think useful to summon with the consent of their respective Governments.

ART. 12. Unless otherwise provided in the present Treaty, the decisions of the Permanent Conciliation Commission shall be taken by a majority vote. Each member shall have one vote; if the votes are equally divided the President shall give a casting vote.

The Commission shall not take a decision affecting the substance of the dispute unless all the members are present.

ART. 13. The Swedish and Belgian Governments undertake to

iter les travaux de la Commission permanente de conciliation et, en particulier, à lui fournir, dans la plus large mesure possible, tous documents et informations utiles, ainsi qu'à user des moyens dont ils disposent pour lui permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

ART. 14. Pendant la durée des travaux de la Commission permanente de conciliation, chacun des commissaires recevra une indemnité dont le montant sera arrêté, d'un commun accord, entre les Gouvernements suédois et belge.

Chaque Gouvernement supportera ses propres frais et une part égale des frais communs de la Commission, les indemnités des commissaires étant comprises parmi ces frais communs.

ART. 15. A défaut de conciliation devant la Commission permanente de conciliation, la contestation sera soumise par voie de compromis à la Cour permanente de Justice internationale, dans les conditions et suivant la procédure prévues par son statut.

A défaut d'accord entre les Parties sur le compromis et après un préavis d'un mois, l'une ou l'autre d'entre elles aura la faculté de porter directement, par voie de requête, la contestation devant la Cour permanente de Justice internationale.

## PARTIE II

ART. 16. Toutes questions autres que celles visées à l'article 1<sup>er</sup>, sur lesquelles le Gouvernement suédois et le Gouvernement belge seraient divisés sans pouvoir les résoudre à l'amiable par les procédés diplomatiques ordinaires, et pour lesquelles une procédure de

facilitate the work of the Permanent Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to allow it to proceed in their territory and in accordance with their laws to summon and hear witnesses and experts, and to visit the localities in question.

ART. 14. During the proceedings of the Permanent Conciliation Commission, each Commissioner shall receive emoluments, the amount of which shall be fixed by agreement between the Swedish and Belgian Governments.

Each Government shall bear its own costs and an equal share of the common costs of the Commission, these common costs to include the Commissioners' emoluments.

ART. 15. In the event of no amicable agreement being reached before the Permanent Conciliation Commission, the dispute shall be submitted by means of a special agreement to the Permanent Court of International Justice, under the conditions and according to the procedure laid down by its Statute.

If the Parties cannot agree on the terms of the special agreement after a month's notice, one or other of them may bring the dispute before the Permanent Court of International Justice by means of an application.

## PART II

ART. 16. All questions other than those mentioned in Article 1, on which the Swedish and Belgian Governments shall differ without being able to reach an amicable solution by means of the normal methods of diplomacy, and for the settlement of which no procedure

règlement ne serait pas déjà prévue par un Traité en vigueur entre les Parties, seront soumises à la Commission permanente de conciliation, qui sera chargée de proposer aux Parties une solution acceptable et, dans tous les cas, de présenter un rapport.

La procédure prévue par les articles 5 à 14 du présent Traité sera appliquée.

ART. 17. Si, dans le mois qui suivra la clôture des travaux de la Commission permanente de conciliation, les deux Parties ne se sont pas entendues, la question sera, à la requête de l'une ou l'autre Partie, soumise pour décision à un tribunal d'arbitrage constitué, à moins d'accord spécial entre les Parties, conformément aux dispositions de l'article 45 de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux. Ce tribunal suivra, dans la mesure où elle s'y prête, la procédure prévue au titre IV, chapitre III de ladite Convention. Toutefois, si dans un délai de six mois à dater du jour où l'une des Parties aura adressé à l'autre une demande tendant à soumettre le différend à l'arbitrage, le compromis visé par la dite Convention de La Haye n'a pas été signé, il sera établi, à la demande de l'une des Parties, par le tribunal arbitral.

Le tribunal statuera "*ex aequo et bono*."

La sentence arbitrale spécifiera, s'il y a lieu, les modalités d'exécution, notamment en fixant des délais d'exécution.

has been laid down by any other treaty in force between the Parties, shall be submitted to the Permanent Conciliation Commission, whose duty it shall be to propose to the Parties an acceptable solution and in any case to present a report.

The procedure laid down in Articles 5 to 14 of the present Treaty shall be applicable.

ART. 17. If the two Parties have not reached an agreement within one month from the termination of the proceedings of the Permanent Conciliation Commission, the question shall, at the request of either Party, be submitted for decision to an arbitral tribunal constituted, in the absence of any special agreement between the Parties, in accordance with the provisions of Article 45 of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes. This tribunal shall observe the procedure laid down in Part 4, Chapter III, of the said Convention, so far as it is applicable. If, however, the special agreement ("*compromis*") stipulated in the aforesaid Hague Convention, has not been concluded within six months from the date on which one of the Parties shall have addressed to the other a request for arbitration, this agreement shall, at the request of one of the Parties, be drawn up by the arbitral tribunal.

The tribunal shall decide the matter "*ex aequo et bono*."

If necessary, the arbitral award shall specify the manner in which it is to be carried out, especially as regards the time-limits to be observed.

#### DISPOSITIONS GÉNÉRALES

ART. 18. S'il s'agit d'une contestation dont l'objet, d'après la

#### GENERAL PROVISIONS

ART. 18. In the case of a dispute, the occasion of which, accord-

législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux de celle-ci, y compris les tribunaux administratifs, cette Partie pourra s'opposer à ce que le différend soit soumis à la procédure prévue par le présent Traité avant qu'un jugement passé en force de chose jugée ne soit rendu, dans des délais raisonnables, par l'autorité judiciaire nationale compétente.

ART. 19. Les Gouvernements suédois et belge s'engagent à s'abstenir, durant le cours d'une procédure ouverte en vertu des dispositions du présent Traité, de toute mesure susceptible d'avoir une répercussion préjudiciable, soit à l'exécution de l'arrêt de la Cour permanente de Justice internationale ou de la décision arbitrale, soit aux arrangements proposés par la Commission permanente de conciliation, et en général à ne procéder à aucun acte, de quelque nature qu'il soit, susceptible d'aggraver ou d'étendre le différend.

Dans tous les cas et notamment si la question au sujet de laquelle les Parties sont divisées résulte d'actes déjà effectués ou sur le point de l'être, la Cour permanente de Justice internationale, statuant conformément à l'article 41 de son statut, indiquera dans le plus bref délai possible quelles mesures provisoires doivent être prises. Il appartiendra également au Tribunal d'arbitrage saisi d'un différend en vertu des dispositions de l'article 17 du présent Traité d'indiquer les mesures provisoires appropriées. Les Hautes Parties Contractantes s'engagent à appliquer les mesures provisoires indiquées par la Cour ou par le Tribunal d'arbitrage.

ART. 20. Si la sentence judiciaire ou arbitrale déclarait qu'une décision prise ou une mesure or-

ing to the municipal law of one of the Parties, falls within the competence of the national courts of such Party, including the administrative tribunals, that Party may require that the dispute shall not be submitted to the procedure laid down in the present Treaty until a judgment with final effect has been pronounced, within a reasonable time, by the competent national judicial authority.

ART. 19. During the course of proceedings instituted in accordance with the provisions of the present Treaty, the Swedish and Belgian Governments undertake to abstain from all measures likely to have consequences prejudicial either to the execution of the decision of the Permanent Court of International Justice or of the arbitral award, or to the arrangements proposed by the Permanent Conciliation Commission, and in general, to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

In any case, and particularly if the question on which the Parties differ arises out of acts already committed or on the point of commission, the Permanent Court of International Justice, acting in accordance with Article 41 of its Statute, shall lay down within the shortest possible time the provisional measures to be adopted. It shall similarly be the duty of the arbitral tribunal to which a dispute is submitted under the provisions of Article 17 of the present Treaty, to lay down suitable provisional measures. The High Contracting Parties undertake to apply the provisional measures laid down by the Court or arbitral tribunal.

ART. 20. If the judicial decision or arbitral award specifies that a decision or measure of a court of



donnée par une autorité judiciaire ou toute autre autorité de l'un des deux Etats se trouve entièrement ou partiellement en opposition avec le droit international, et si le droit constitutionnel du dit Etat ne permettrait pas ou ne permettait qu'imparfaitement d'effacer les conséquences de cette décision ou de cette mesure, les Parties conviennent qu'il devra être accordé par la sentence judiciaire ou arbitrale, à la Partie lésée, une satisfaction équitable d'un autre ordre.

ART. 21. Tous différends relatifs à l'interprétation du présent Traité seront soumis à la Cour permanente de Justice internationale.

ART. 22. Le présent Traité sera ratifié par Sa Majesté le Roi de Suède avec l'approbation du Riksdag et par Sa Majesté le Roi des Belges après approbation des Chambres. L'échange des ratifications aura lieu à Stockholm aussitôt que faire se pourra.

Le Traité remplacera la Convention d'arbitrage du 30 novembre 1904.

Il est conclu pour une durée de dix ans à compter de la date de l'échange des ratifications. S'il n'est pas dénoncé six mois au moins avant l'expiration de ce terme, il demeurera en vigueur pour une nouvelle période de cinq ans et ainsi de suite.

En foi de quoi les Plénipotentiaires ont signé le présent Traité.

Fait à Bruxelles, le 30 avril 1926.

G. de Dardel  
Emile Vandervelde

law or other authority of either of the two States is wholly or in part contrary to international law, and if the constitutional law of the said State does not permit, or only partially permits, the consequences of the decision or measure in question to be annulled, the Parties agree that the judicial decision or arbitral award shall give the injured party equitable satisfaction of another kind.

ART. 21. Any dispute arising as to the interpretation of the present Treaty shall be submitted to the Permanent Court of International Justice.

ART. 22. The present Treaty shall be ratified by His Majesty the King of Sweden with the approval of the Riksdag, and by His Majesty the King of the Belgians after approval by the Chambers. The exchange of ratifications shall take place at Stockholm as soon as possible.

The Treaty shall take the place of the Arbitration Convention of November 30, 1904.

The Treaty shall be valid for a period of ten years from the date of the exchange of ratifications. If, however, it is not denounced at least six months before the expiration of this period, it shall remain in force for a further period of five years, and so on for successive periods of five years.

In faith whereof the Plenipotentiaries have signed the present Treaty.

Done at Brussels, April 30, 1926.

Emile Vandervelde  
G. de Dardel

PERMANENT COMMISSION OF CONCILIATION

(Appointed March 27, 1928)

*President appointed by both Parties*

ALBERTO GUANI, Minister of Uruguay to France. (*Uruguayan.*)

*Members appointed by both Parties*

RAFAEL ERICH, Professor at the University of Helsingfors, former Prime Minister of Finland. (*Finnish.*)

A. DE LAPRADELLE, Professor at the University of Paris. (*French.*)

*Member appointed by Belgium*

HENRY ROLIN, Barrister and Legal Adviser to the Ministry of Foreign Affairs of Belgium. (*Belgian.*)

*Member appointed by Sweden*

LARS BIRGER EKEBERG, former Minister of Justice of Sweden. (*Swedish.*)

No. 66

GERMANY-THE NETHERLANDS: TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at the Hague May 20, 1926; ratifications exchanged July 14, 1927.

Original text from Netherlands, *Staatsblad*, 1927, No. 279;<sup>1</sup> English translation from League of Nations, *Treaty Series*, LXVI, 119-131.

(Translation)

Het Koninkrijk der Nederlanden en het Duitsche Rijk,

vervuld van den wensch, de ontwikkeling van de procedure van vreedzame beslechting van internationale geschillen te bevorderen, zijn overeengekomen een algemeen Arbitrage- en Verzoeningsverdrag te sluiten.

Te dien einde hebben tot gevolmachtigden benoemd:

Hare Majesteit de Koningin der Nederlanden:

Zijne Excellentie Jonkheer H. A. van Karnebeek, Hoogstderzelver Minister van Buitenlandsche Zaken;

The Kingdom of the Netherlands and the German Reich, being desirous of promoting the development of the procedure for the pacific settlement of international disputes, have agreed to conclude a General Arbitration and Conciliation Convention, and have for this purpose appointed as their Plenipotentiaries:

Her Majesty the Queen of The Netherlands:

His Excellency Jonkheer H. A. Van Karnebeek, Minister for Foreign Affairs;

<sup>1</sup> See also League of Nations, *Treaty Series*, LXVI, 104. The German text is also authentic.

de Deutsche Rijkspresident:

Freiherr H. Lucius von Stuedten,  
Buitengewoon Gezant en Gevol-  
machtigd Minister van het Deutsche  
Rijk te 's-Gravenhage,

die, nadat zij hunne volmachten  
onderzocht en in goeden en behoor-  
lijken vorm hebben bevonden, om-  
trent de volgende bepalingen zijn  
overeengekomen:

ARTIKEL 1. De Verdragsluitende  
Partijen verplichten zich, alle ge-  
schillen van welken aard ook, die  
tusschen haar ontstaan en niet  
binnen redelijken tijd langs diplo-  
matieken weg kunnen worden op-  
gelost, en die niet met toestemming  
van beide Partijen aan het Perma-  
nente Hof van Internationale Jus-  
titie worden voorgelegd, volgens  
de bepalingen van dit Verdrag,  
hetzij aan een arbitrage- hetzij aan  
een verzoeningsprocedure te onder-  
werpen.

Geschillen, voor welker beslech-  
ting de Verdragsluitende Partijen  
door andere tusschen haar be-  
staande overeenkomsten aan een  
bijzondere procedure gebonden  
zijn, worden volgens de bepalingen  
dezer overeenkomsten behandeld.

ART. 2. Onder voorbehoud van  
de bepalingen van artikel 3 worden  
op verlangen van een der Partijen  
aan de arbitrage-procedure onder-  
worpen, die geschillen, waarbij de  
Partijen het onderling oneens zijn  
over een rechtsvraag, in het bijzon-  
der die geschillen, welke betrek-  
king hebben op:

ten eerste: inhoud, uitlegging en  
toepassing van een tusschen de  
beide Partijen gesloten Verdrag;

ten tweede: ieder punt van inter-  
nationaal recht;

ten derde: het bestaan van een  
feit, dat, wanneer het werd vast-  
gesteld, zou inhouden de schending  
van een internationale verplichting;

The President of the German  
Reich:

Baron H. Lucius von Stuedten,  
Envoy Extraordinary and Minister  
Plenipotentiary of the German  
Reich at The Hague,

Who, after having communicated  
to each other their full powers,  
found in good and due form, have  
agreed as follows:

ARTICLE 1. The Contracting  
Parties undertake to submit all  
disputes of any nature whatever  
which may arise between them,  
which it has not been possible to  
settle within a reasonable period by  
diplomacy, and which have not  
been referred by mutual agreement  
to the Permanent Court of Inter-  
national Justice, to be dealt with  
by arbitration or conciliation, as  
provided in the present Conven-  
tion.

Disputes for the solution of  
which a special procedure has been  
laid down in other conventions in  
force between the Contracting  
Parties shall be settled in accord-  
ance with the provisions of such  
conventions.

ART. 2. At the request of one of  
the Parties, disputes regarding  
points of law, and especially the  
following subjects, unless other-  
wise provided for in Article 3, shall  
be submitted to arbitration:

(1) The contents, interpretation  
and application of any treaty con-  
cluded between the two Parties;

(2) Any question of interna-  
tional law;

(3) The existence of any fact  
which, if established, would con-  
stitute a breach of an international  
obligation;

ten vierde: omvang en aard van de vergoeding in geval van zulk een schending.

Wanneer er tusschen de Partijen meeningsverschillen bestaan over de vraag of een geschil tot de hierboven omschreven soorten behoort, dan wordt over deze voorafgaande vraag door de arbitrage-procedure beslist.

ART. 3. Bij vragen, die krachtens de landswetten van de Partij, tegen wie een eisch wordt ingesteld, door de rechterlijke autoriteiten, met inbegrip van de administratieve gerechten, beslist moeten worden, kan deze Partij verlangen, dat de geschillen eerst dan aan de arbitrage-procedure worden onderworpen, nadat in de gerechtelijke procedure een eindvonnis gewezen is en dat zij uiterlijk zes maanden na deze beslissing voor het Scheids-gerecht worden gebracht. Dit geldt niet, wanneer het een geval van rechtsweigerig betreft en de wet- telijk voorgeschreven instanties zijn ingeroepen.

Ontstaat er tusschen de Partijen verschil van meening over de toe- passing van bovenstaande bepaling, dan wordt daarover volgens de arbitrage-procedure beslist.

ART. 4. Het Scheidsgerecht legt aan zijne beslissingen ten grond- slag:

ten eerste: de tusschen de Parti- jen geldende overeenkomsten van algemeenen of bijzonderen aard en de daaruit voortspruitende rechts- regelen;

ten tweede: het internationale gewoonterecht, als uiting van een algemeene, als recht erkende prac- tijk;

ten derde: de algemeene door de beschaafde Staten erkende rechts- beginselen;

ten vierde: de resultaten van beproefde wetenschap en recht-

(4) The extent and nature of the reparation to be made in the case of a breach of such obligation.

In case of disagreement as to whether the dispute falls under one of the above categories, this prior question shall be referred to arbi- tration.

ART. 3. In regard to questions which, under the national laws of the Party against which a demand has been formulated, are within the competence of judicial author- ities, including administrative tri- bunals, the defendant Party may require that the dispute shall not be submitted to arbitral award until a final decision has been pronounced by these judicial authorities and that the matter shall be brought before this Tribunal not later than six months after the date of such decision. The above provisions shall not apply if justice has been refused and if the matter has been brought before the courts of appeal provided for by law.

In the case of disputes regarding the application of the preceding provision, the Arbitral Tribunal shall decide.

ART. 4. The Tribunal shall base its decision on:

(1) The conventions, whether general or particular, in force be- tween the Parties, and the princi- ples of law arising therefrom;

(2) International custom as evi- dence of a general practice accepted as law;

(3) The general principles of law recognised by civilised nations;

(4) The precedents laid down in recognised doctrine and legal prac-

spraak als hulpmiddel voor het vaststellen der rechtsnormen.

Met toestemming van beide Partijen kan het Scheidsgerecht zijn beslissing, in plaats van daaraan rechtsbeginselen ten grondslag te leggen, naar billijkheid nemen.

ART. 5. Voor zoover de Partijen niet in een bijzonder geval een toegestelde overeenkomst aangaan, wordt het Scheidsgerecht op de volgende wijze samengesteld.

De rechters worden gekozen op den grondslag van de lijst der leden van het door het Haagsche Verdrag voor de vreedzame beslechting van internationale geschillen van 18 October 1907 in het leven geroepen Permanente Hof van Arbitrage te 's-Gravenhage.

Iedere Partij benoemt naar vrije keuze één scheidsrechter. In gemeen overleg benoemen de Partijen drie andere rechters en uit hun midden den Voorzitter. Wanneer een der bij gemeen overleg benoemde rechters na zijn verkiezing, de nationaliteit van een der beide Partijen verkrijgt, zich op het gebied van een harer metterwoon vestigt, of in dienst van een harer treedt, kan elk der Partijen verlangen, dat hij worde vervangen. Geschillen over de vraag of deze omstandigheden aanwezig zijn, worden door de vier overige rechters beslist, waarbij de oudste der in gemeen overleg benoemde rechters voorziet en bij het staken der stemmen een dubbele stem heeft.

Voor ieder afzonderlijk geschil worden de rechters opnieuw gekozen. De Verdragsluitende Partijen behouden zich echter voor in gemeen overleg aldus te handelen, dat voor bepaalde soorten van geschillen gedurende een bepaalden tijd dezelfde rechters tot het Scheidsgerecht zullen behooren.

Leden van het Scheidsgerecht,

tice as an auxiliary factor in the establishment of rules of law.

If both Parties agree, the Tribunal may, instead of basing its decision on legal principles, give an award in accordance with considerations of equity.

ART. 5. In the absence of agreement to the contrary between the Parties in each particular case, the Tribunal shall be constituted as follows:

The judges shall be chosen from the list of members of the Permanent Court of Arbitration established by the Hague Convention, dated October 18, 1907, for the Pacific Settlement of International Disputes.

Each Party shall appoint its own arbitrator. The Parties shall jointly nominate three other arbitrators, one of whom shall be the umpire. If, after having been appointed, one of the judges jointly elected acquires the nationality of one of the Parties, appoints his domicile in its territory or enters its service, either of the Parties may demand that he be replaced. Any disputes which may arise as to whether any one of these conditions exists shall be settled by the other four judges; the eldest of the judges jointly elected shall take the chair in these cases, and, if the votes are equally divided, he shall give a casting vote.

For each individual dispute there shall be a fresh election of judges. The Contracting Parties, however, reserve the right to act in concert, so that, for a certain class of dispute arising within a fixed period, the same judges shall sit on the Tribunal.

In case of the death of members of the Tribunal, or of their retirement for any reason whatever, they shall be replaced according to the

die om de een of andere reden aftreden, worden vervangen op dezelfde wijze, als waarop zij benoemd zijn.

ART. 6. De Verdragsluitende Partijen zullen ter uitvoering van dit Verdrag in ieder bijzonder geval een compromis opstellen. Daarin zullen het punt van geschil, de eventueele bijzondere bevoegdheden van het Scheidsgerecht, zijn samenstelling en zetel, de grootte van het door elk der Partijen als voorschot van de kosten te storten bedrag, de regelen, die in acht genomen zullen moeten worden ten aanzien van den vorm en de termijnen van de procedure, zoowel als de bijzonderheden, die verder noodig mochten zijn, worden vastgelegd.

Meeningsverschillen over de bepalingen van het compromis zullen, onder voorbehoud van artikel 7, door het Scheidsgerecht worden beslist.

ART. 7. Wanneer het compromis niet binnen 6 maanden, nadat de eene Partij aan de andere het verlangen naar een scheidsrechterlijke beslechting van een geschil heeft kenbaar gemaakt, tusschen de Partijen tot stand komt, kan iedere Partij zich tot de in artikel 13 bedoelde Permanente Verzoeningscommissie wenden, ter opstelling van het compromis. Deze moet binnen 2 maanden, nadat een der Partijen zich tot haar heeft gewend, het compromis opstellen, waarbij het punt van geschil op grond van de conclusies der Partijen moet worden vastgesteld.

Evenzoo moet gehandeld worden, wanneer een Partij den door haar te benoemen rechter niet heeft aangewezen of wanneer de Partijen het niet eens zijn over de benoeming van de in gemeen over-

manner determined for their appointment.

ART. 6. In each individual case the Contracting Parties shall, in pursuance of the present Treaty, draw up a special agreement (*Schiedsordnung*), to determine the subject of the dispute, any special terms of reference which may be accorded to the Tribunal, its composition, the place where it shall meet, the amount that each Party concerned shall be obliged to deposit in advance to cover expenses, the rules to be observed with regard to the form and the limits of the proceedings, and any other detail that may be considered necessary.

Any disputes arising out of the terms of the special agreement shall, subject to the terms of Article 7, be settled by the Arbitral Tribunal.

ART. 7. If the special agreement has not been drawn up within a period of six months after one Party concerned has notified the other of its intention to refer the dispute to arbitration, either Party may request the Permanent Board of Conciliation provided for under Article 13 to establish the special agreement. The Permanent Board of Conciliation shall, within two months after having been convened, settle the terms of the special agreement, the subject of the dispute being determined on the basis of the statements submitted by the Parties.

The same procedure shall apply when one Party has not nominated the arbitrator for whose appointment it is responsible, or when the Parties concerned cannot agree upon the choice of the judges to be

leg aan te wijzen rechters of van den Voorzitter.

De Permanente Verzoeningscommissie is verder bevoegd om, tot de aanwijzing van het Scheidsgerecht, een beslissing te nemen over elk ander geschil, dat betrekking heeft op het compromis.

ART. 8. Het Scheidsgerecht neemt zijn beslissingen met gewone meerderheid van stemmen.

ART. 9. De scheidsrechterlijke beslissing zal aanwijzingen bevatten over de wijze van haar tenuitvoerlegging en in het bijzonder over de daarbij in acht te nemen termijnen.

Wanneer in een scheidsrechterlijke beslissing wordt geconstateerd, dat een door een gerecht of een andere autoriteit van één der Partijen genomen beslissing of maatregel geheel of gedeeltelijk in strijd is met het Volkenrecht, doch wanneer volgens het staatsrecht van die Partij de gevolgen van de beslissing of van den maatregel niet of niet geheel door administratieve maatregelen ter zijde kunnen worden gesteld, dan zal in de scheidsrechterlijke beslissing aan de beleedigde Partij op andere wijze een behoorlijke voldoening moeten worden toegekend.

ART. 10. Behoudens andersluidende overeenkomst in het compromis kan elke Partij aan het Scheidsgerecht, dat de beslissing genomen heeft, daarvan revisie verzoeken. Het verzoek kan slechts gegrond worden op de ontdekking van een feit van zoodanigen aard, dat het een beslissenden invloed op de uitspraak gehad zou kunnen hebben en dat, bij het einde van de behandeling, zoowel aan het Scheidsgerecht zelf, als aan de Partij, die revisie verzocht heeft, buiten haar schuld onbekend was.

appointed jointly or of the umpire.

Pending the constitution of the Tribunal, the Permanent Board of Conciliation shall also be competent to decide any other dispute relating to the special agreement.

ART. 8. The award of the Tribunal shall be given by a majority vote.

ART. 9. The arbitration award shall specify the manner in which it is to be carried out, especially as regards the time-limits to be observed.

If in an arbitration award it is proved that a decision or measure of a Court of Law or other authority of one of the Parties is wholly or in part contrary to international law, and if the constitutional law of that Party does not permit, or only partially permits, the consequences of the decision or measure in question to be annulled by administrative measures, the arbitration award shall give the injured Party equitable satisfaction of another kind.

ART. 10. Subject to any provision to the contrary in the special agreement, either Party may claim a revision of the award by the Tribunal which gave the award. This demand may only be based on the discovery of a fact, which might have exercised a decisive influence on the award, and which at the time of the close of the proceedings, was unknown to the Tribunal itself and, through no fault of its own, to the Party demanding the revision.

Leden van het Scheidsgerecht, die om de een of andere reden af-treden bij de herzieningsprocedure, worden op dezelfde wijze vervangen als waarop zij benoemd zijn.

De termijn, waarbinnen het in alinea 1 bedoelde verzoek kan worden gedaan, moet in de scheids-rechterlijke beslissing worden bepaald, voor zoover dit niet in het compromis is geschied.

ART. 11. Alle geschillen, die tusschen de Partijen mochten ontstaan over de uitlegging of tenuitvoerlegging van de scheidsrechterlijke beslissing, staan, tenzij anders wordt overeengekomen, ter beoordeeling van het Scheidsgerecht, dat de beslissing genomen heeft. Daarbij vindt de bepaling van artikel 10, alinea 2, overeenkomstige toepassing.

ART. 12. Alle geschillen, die niet volgens de voorafgaande artikelen van dit Verdrag aan de arbitrage-procedure onderworpen worden, en die niet met toestemming van beide Partijen op andere wijze vreedzaam geregeld worden, zullen op verlangen van één der Partijen volgens de verzoeningsprocedure moeten worden behandeld.

Beweert de andere Partij, dat het geschil, hetwelk aan de verzoeningsprocedure onderworpen is, behandeld moet worden door het Permanente Hof van Internationale Justitie, het Scheidsgerecht of in een bijzondere procedure volgens artikel 1, alinea 2, moet worden beslist, dan beslist over deze voorafgaande vraag het orgaan, welks bevoegdheid wordt beweerd.

De Regeeringen der Verdragsluittende Partijen kunnen in gemeen overleg een geschil, dat volgens dit Verdrag aan het Permanente Hof van Internationale Justitie of aan een Scheidsgerecht onderworpen

If, for any reason, any members of the Tribunal do not take part in the revision proceedings, substitutes for them shall be appointed in the manner determined for their own appointment.

The limit of time within which the demand provided for in the first paragraph may be presented shall be fixed in the arbitral award, unless it has already been fixed in the special agreement.

ART. 11. Any dispute arising between the Parties concerned as to the interpretation and execution of the award shall, in the absence of an agreement to the contrary, be submitted to the Tribunal which pronounced it. In the latter case, the provision contained in Article 10, paragraph 2, shall also apply, *mutatis mutandis*.

ART. 12. Any dispute which, under the terms of the present Convention, cannot be referred to arbitration, and cannot, by consent of both Parties, be settled peacefully by any other means shall, at the request of either of the Parties concerned, be submitted to the procedure of conciliation.

If the opposing Party claims that a dispute, for which conciliation procedure has been initiated, should be settled by the Permanent Court of International Justice or by the Arbitration Tribunal or by any other special procedure as provided by Article 1, paragraph 2, the body, whose jurisdiction is claimed, shall first pronounce judgment upon this prior question.

The Governments of the Contracting Parties shall be entitled to agree that a dispute which, under the terms of the present Convention, can be settled by the Permanent Court of International Justice or by an Arbitration Tribunal, shall



kan worden, definitief of onder voorbehoud van latere onderwerping aan het Permanente Hof van Internationale Justitie of aan een Scheidsgerecht, aan de verzoeningsprocedure onderwerpen.

ART. 13. Voor de verzoeningsprocedure wordt een Permanente Verzoeningscommissie samengesteld.

De Permanente Verzoeningscommissie bestaat uit vijf leden. De Verdragsluitende Partijen benoemen, ieder voor zich, naar vrije keuze, elk één lid en benoemen de drie overige leden in gemeen overleg. Deze drie leden zullen geen onderdanen der Verdragstaten mogen zijn, noch op hun gebied mogen wonen, noch in hun dienst zijn of geweest zijn. Uit hun midden wordt de Voorzitter door de Verdragsluitende Partijen gemeenschappelijk aangewezen.

Ieder der Verdragsluitende Partijen heeft het recht, steeds, voorzover niet een procedure ahangig of door een der Partijen verzocht is, het door haar benoemde lid ontslag te verleenen en diens opvolger aan te wijzen. Onder dezelfde voorwaarden staat het ieder der Verdragsluitende Partijen ook vrij de toestemming tot de benoeming van elk der drie in gemeen overleg benoemde leden in te trekken. In zulk een geval moet onverwijld tot de gemeenschappelijke benoeming van een nieuw lid worden overgegaan.

Binnen een termijn van veertien dagen na den dag, waarop een der beide Verdragsluitende Partijen een geschil voor de Permanente Verzoeningscommissie heeft gebracht, kan elk der Partijen voor de behandeling van dit geschilpunt het door haar aangewezen lid van de Permanente Verzoeningscommissie doen vervangen door iemand, die ter zake bijzonder deskundig is.

be submitted to the conciliation procedure, either without appeal or subject to appeal to the Permanent Court of International Justice or to an Arbitration Tribunal.

ART. 13. A Permanent Board of Conciliation shall be constituted for the procedure of conciliation.

The Permanent Board of Conciliation shall consist of five members. The Contracting Parties shall each appoint one member of their own choice and shall nominate the three other members by common agreement. These three members shall not be nationals of the Contracting States, nor be resident in their territory, nor be nor have been in their service. The Contracting Parties shall jointly elect the Chairman from among these three members.

Either of the Contracting Parties shall have the right, at any time, unless a procedure is pending or has been proposed by one of the Parties, to recall the member appointed by it and to appoint a successor. Similarly, either Contracting Party shall also be entitled to withdraw its consent to the appointment of each of the three members nominated jointly. In this case a new member must be appointed by joint agreement without delay.

Within two weeks from the date when one of the Contracting Parties has referred a dispute to the Permanent Board of Conciliation, either Party may, for the purpose of this particular dispute, replace its member by a person possessing expert knowledge of the question at issue. The Party exercising this right shall immediately inform the other Party; the latter shall in that case be entitled to take similar action within two weeks after receipt of such notice.

De Partij, die van dit recht gebruik maakt, deelt dat onverwijld aan de andere Partij mede, aan wie het dan vrijstaat, binnen veertien dagen na den dag, waarop zij die mededeeling heeft ontvangen, hetzelfde te doen.

De Permanente Verzoeningscommissie wordt binnen zes maanden na uitwisseling der bekrachtigingsoorkonden van dit Verdrag samengesteld. Aftredende leden worden overeenkomstig de procedure, die voor de eerste keuze heeft gegolden, ten spoedigste vervangen.

Indien de benoeming van de in gemeen overleg te benoemen leden niet binnen zes maanden na de uitwisseling der bekrachtigingsoorkonden, of voor het geval van de aanvulling der Permanente Verzoeningscommissie, niet binnen drie maanden na het aftreden van een lid heeft plaats gevonden, zal, indien geen andere overeenkomst mocht worden verkregen, de Zwitsersche Bondsprezident worden verzocht tot de vereischte benoemingen over te gaan.

ART. 14. De Permanente Verzoeningscommissie treedt in werking, zoodra een der Partijen zich tot haar wendt. Deze richt haar verzoek gelijktijdig aan den Voorzitter der Permanente Verzoeningscommissie en aan de andere Partij. De Voorzitter dient de Permanente Verzoeningscommissie binnen den kortst mogelijken tijd bijeen te roepen.

De Verdragsluitende Partijen verplichten zich in alle gevallen en in ieder opzicht de werkzaamheden der Permanente Verzoeningscommissie te bevorderen en haar in het bijzonder door de bevoegde autoriteiten allen rechtsbijstand te verleenen. Zij zullen alle vereischte maatregelen treffen, opdat aan de

The Permanent Board of Conciliation shall be constituted within the six months following the exchange of the instruments of ratification of the present Convention. Retiring members shall be replaced as soon as possible in the manner laid down for the first election.

If the nomination of the members to be appointed jointly has not taken place within the six months following the exchange of the instruments of ratification, or, in the case of a vacancy on the Permanent Board of Conciliation, within three months of the date on which the vacancy occurred, in the absence of any other agreement, the President of the Swiss Confederation shall be invited to make the necessary appointment.

ART. 14. The Permanent Board of Conciliation shall enter upon its duties as soon as a dispute has been referred to it by either of the Parties. Such Party shall communicate its request simultaneously to the Chairman of the Permanent Board of Conciliation and to the other Party. The Chairman shall summon the Permanent Board of Conciliation to meet at the earliest possible moment.

The Contracting Parties undertake in all cases and in all respects to assist the Permanent Board of Conciliation in its work and, in particular, to grant it all legal assistance through the competent authorities. They shall take all necessary measures to enable the

**Permanente Verzoeningscommissie** de mogelijkheid geopend wordt, om op haar gebied getuigen en deskundigen te hooren en een onderzoek ter plaatse in te stellen. De Permanente Verzoeningscommissie kan de bewijzen, hetzij in voltallige vergadering, hetzij door een of verscheidene der in gemeen overleg benoemde leden verzamelen.

ART. 15. De Permanente Verzoeningscommissie bepaalt haren zetel. Zij kan hem naar goeddunken verplaatsen.

De Permanente Verzoeningscommissie stelt, indien dit noodig is, een secretariaat in. Indien zij bij het secretariaat onderdanen der Partijen benoemt, moet zij daarbij de Partijen op denzelfden voet behandelen.

ART. 16. De Permanente Verzoeningscommissie is bevoegd besluiten te nemen, indien alle leden behoorlijk opgeroepen en tenminste de in gemeen overleg benoemde leden aanwezig zijn.

De Permanente Verzoeningscommissie neemt hare besluiten met gewone meerderheid van stemmen. Bij staking der stemmen brengt de Voorzitter een dubbele stem uit.

ART. 17. De Permanente Verzoeningscommissie heeft tot taak een verslag uit te brengen, dat den stand van zaken vaststelt en, tenzij dit met het oog op de bijzondere omstandigheden van het geval niet wenschelijk wordt geacht, voorstellen tot bijlegging van het geschil bevat.

Dit verslag moet binnen zes maanden na den dag, waarop het geschil bij de Permanente Verzoeningscommissie werd aanhangig gemaakt, worden uitgebracht, tenzij de Partijen in gemeen overleg dezen

**Permanent Board of Conciliation** to summon and examine witnesses and experts and to proceed to investigations on the spot in their respective territories. The Board may take evidence either *in pleno* or through one or more of the members appointed jointly.

ART. 15. The Permanent Board of Conciliation shall determine its own meeting-place and shall be at liberty to transfer it.

The Permanent Board of Conciliation shall if need be establish a Registry. If it appoints nationals of the Contracting Parties to positions in this office, it shall treat both Parties as on an equal footing.

ART. 16. The deliberations of the Permanent Board of Conciliation shall be valid if all the members have been duly convoked and if at least the members nominated jointly are present at the meeting.

The decisions of the Permanent Board of Conciliation shall be taken by a majority vote. If the votes are equally divided, the Chairman shall give a casting vote.

ART. 17. The Permanent Board of Conciliation shall draw up a report which shall set out the facts of the case, and shall, unless it may seem undesirable in the particular circumstances of the case, contain proposals for the settlement of the dispute.

The report shall be submitted within six months from the date on which the dispute was laid before the Permanent Board of Conciliation, unless the Parties agree to extend this time-limit, or, before the Permanent Board of Concili-

termijn verlengen of, vóór de bijeenkomst van de Permanente Verzoeningscommissie, verkorten. Bovendien heeft ook de Permanente Verzoeningscommissie het recht dezen termijn voor éénmaal — voor hoogstens 6 maanden — te verlengen. Het verslag moet in drievoud opgesteld worden, waarvan iedere Partij een exemplaar overhandigd- en het derde door de Permanente Verzoeningscommissie bewaard wordt.

Het verslag heeft, noch wat de feiten, noch wat de rechtsoverwegingen betreft, de beteekenis eener definitief bindende beslissing. Bij mededeeling van het verslag kan de Permanente Verzoeningscommissie aan de Partijen in overweging geven, zich binnen een in het verslag te bepalen termijn erover uit te spreken, of en in hoeverre zij de bevindingen van het verslag erkennen en de erin gedane voorstellen aannemen.

Het staat aan de Partijen, in gemeen overleg te bepalen, of het verslag onverwijld openbaar gemaakt zal worden of niet. Bereikt men daarover echter geen overeenstemming, dan kan de Permanente Verzoeningscommissie harerzijds op grond van bijzondere overwegingen de onmiddellijke openbaarmaking bewerkstelligen.

ART. 18. Iedere Partij bekostigt de vergoeding voor de werkzaamheden van het door haar benoemde lid der Permanente Verzoeningscommissie, zoodat de helft van de vergoeding voor de werkzaamheden der in gemeen overleg benoemde leden.

Iedere Partij draagt de door haar veroorzaakte kosten der procedure, zoodat de helft der door de Permanente Verzoeningscommissie als gemeenschappelijk aangeduide kosten.

ation has met, agree to shorten it. In addition, the Permanent Board of Conciliation shall have the right to extend this time-limit once for a period not exceeding six months. The report shall be drawn up in three copies, one of which shall be handed to each of the Parties, and the third preserved in the archives of the Permanent Board of Conciliation.

The report shall not, either as regards statements of fact or as regards legal considerations, have the force of a final judgement binding upon the Parties. When submitting its report, the Permanent Board of Conciliation may call upon the Parties to state within a time-limit to be fixed by the report, whether, and to what extent, they recognise the correctness of the findings in the report and accept the proposals which it contains.

The Parties shall jointly decide whether the report should be published immediately. If they fail to reach an agreement on this point, the Permanent Board of Conciliation may have the report published immediately should there be special reasons for so doing.

ART. 18. Each Party shall bear the cost of the remuneration of the member of the Permanent Board of Conciliation appointed by itself, and half the cost of the emoluments of the members jointly appointed.

Each Party shall bear the costs for which it is directly responsible in connection with the proceedings and half of the costs which the Permanent Board of Conciliation declares to be common to both Parties.

ART. 19. De in de arbitrage-procedure gegeven beslissing moet door de Partijen te goeder trouw nagekomen worden.

De Verdragsluitende Partijen verplichten zich, gedurende de arbitrage- of verzoeningsprocedure zooveel mogelijk iederen maatregel te vermijden, welke op de nakoming van de scheidsrechterlijke beslissing of de aanneming der voorstellen van de Permanente Verzoeningscommissie een nadeelige uitwerking zoude kunnen hebben. Bij een verzoeningsprocedure moeten zij zich tot op het tijdstip, dat de Permanente Verzoeningscommissie voor de aannemingsverklaring der Partijen aangeeft, of bij ontstentenis van zoodanige aanduiding, tot aan het uitbrengen van het verslag zelf, van ieder gewelddadig ingrijpen op eigen gezag onthouden.

Het Scheidsgerecht kan op verlangen van een Partij voorzorgsmaatregelen bevelen, voorzoverre deze door de Partijen door middel harer uitvoerende organen uitgevoerd kunnen worden; evenzoo kan de Permanente Verzoeningscommissie met hetzelfde doel voorstellen doen.

ART. 20. Behoudens bepalingen in tegengestelden zin van dit Verdrag of van het compromis is voor de arbitrage- en verzoeningsprocedure het Haagsch Verdrag voor de vreedzame beslechting van internationale geschillen van 18 October 1907 beslissend.

Voor zooverre dit Verdrag naar de bepalingen van het Haagsch Verdrag verwijst, zijn zij in de verhouding tusschen de Verdragsluitende Partijen zelfs dan nog van toepassing, wanneer deze of een van haar het Verdrag mochten hebben opgezegd.

ART. 19. The award pronounced as the result of the procedure of arbitration shall be carried out in good faith by the Parties concerned.

The Contracting Parties shall undertake, during the course of the arbitration or conciliation proceedings, to refrain as far as possible from any action liable to have a prejudicial effect on the execution of the arbitral award or on the acceptance of the proposals of the Permanent Board of Conciliation. In the case of conciliation proceedings, they shall refrain from resorting to forcible measures of any kind until the expiration of the time-limit fixed by the Permanent Board of Conciliation for the acceptance of its proposals, or in the absence of such a time-limit, until the report has been presented.

The Arbitral Tribunal may, at the request of either of the Parties, prescribe measures of precaution, provided that such measures can be carried out by the Parties through their administrative machinery; the Permanent Board of Conciliation may also make proposals for the same purpose.

ART. 20. Subject to any provisions to the contrary laid down in the present Convention, or the special agreement, the procedure of arbitration and conciliation shall be regulated by the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

In so far as the present Convention refers to the stipulations of the Hague Convention, the latter shall be applicable to the relations between the Contracting Parties, even if one or both of them denounce the Hague Convention.

Voor zooverre noch dit Verdrag, noch het compromis, noch de andere tusschen de Verdragsluitende Partijen bestaande overeenkomsten de termijnen en andere bijzonderheden van de arbitrage- en verzoeningsprocedure vaststellen, is het Scheidsgerecht of de Permanente Verzoeningscommissie zelf bevoegd, de vereischte bepalingen vast te stellen.

ART. 21. Dit Verdrag zal zoo spoedig mogelijk bekrachtigd worden. De bekrachtigingsoorkonden zullen te Berlijn worden uitgewisseld.

Het Verdrag treedt een maand na de uitwisseling der bekrachtigingsoorkonden in werking.

Het Verdrag geldt voor den duur van tien jaren. Indien het niet zes maanden vóór het einde van dezen termijn wordt opgezegd, zal het voor een nader tijdperk van vijf jaren van kracht blijven. Hetzelfde geldt, wanneer het Verdrag niet met inachtneming van den genoemden termijn wordt opgezegd, voor den daaropvolgenden tijd.

Een arbitrage-procedure of een verzoeningsprocedure, welke bij het beëindigen van dit Verdrag nog aanhangig is, wordt afgewikkeld volgens de bepalingen van dit Verdrag of van een andere overeenkomst, welke door de Verdragsluitende Partijen in plaats daarvan wordt gesloten.

Ter oorkonde waarvan de gevolmachtigden dit Verdrag hebben onderteekend.

Gedaan in twee origineele exemplaren in de Nederlandsche en Duitsche talen te 's-Gravenhage, den zosten Mei 1926.

v. Karnebeek  
v. Lucius

In so far as neither the present Convention, nor the special agreement, nor any other conventions in force between the Parties lay down the time-limits and other details connected with the procedure of arbitration or conciliation, the Tribunal or the Permanent Board of Conciliation shall itself be competent to decide as to the necessary provisions.

ART. 21. The present Convention shall be ratified as soon as possible. The instruments of ratification shall be exchanged at Berlin.

The Convention shall come into force one month after the exchange of instruments of ratification.

The Convention shall be valid for a period of ten years. If, however, it is not denounced six months before the expiration of this period, it shall remain in force for a further period of five years, and shall be similarly renewed so long as it has not been denounced within the prescribed period.

If a dispute which has been referred to arbitration or conciliation has not been settled when the present Convention expires, the case shall be proceeded with according to the stipulations of the present Convention or of any other Convention which the Contracting Parties may agree to substitute therefor.

In witness whereof, the Plenipotentiaries have signed the present Convention.

Done in duplicate in Dutch and German at The Hague, May 20, 1926.

v. Karnebeek  
v. Lucius

## FINAL PROTOCOL

*Of the Convention of Arbitration and Conciliation between the Netherlands and Germany*

(1) De Verdragsluitende Partijen gaan van het standpunt uit, dat de afzonderlijke bepalingen van het Verdrag in geval van twijfel ten gunste van de toepassing van het beginsel der scheidsrechtelijke oplossing van geschillen moeten worden uitgelegd.

(2) De Verdragsluitende Partijen verklaren, dat het Verdrag ook dan van toepassing zal zijn, wanneer een geschil zijn oorsprong vindt in gebeurtenissen, welke vóór het sluiten van het Verdrag hebben plaats gevonden. Mogelijke, met gebeurtenissen uit den wereldoorlog in onmiddellijk verband staande geschillen worden echter, met het oog op hunne algemeene staatkundige beteekenis, hiervan uitgesloten.

(3) Het feit, dat bij een geschil derde Staten betrokken zijn, sluit de toepassing van het Verdrag niet uit. De Verdragsluitende Partijen zullen, wanneer het geval zich mocht voordoen, er naar streven, de derde Staten tot aansluiting bij de arbitrage- of verzoeningsprocedure te bewegen. In dit geval blijft voor de wederzijdsche Regeeringen het recht voorbehouden, in gemeen overleg een bijzondere samenstelling van het Scheidsgerecht of van de Permanente Verzoeningscommissie te bepalen. Kan binnen redelijken tijd met derde Staten over derzelfver aansluiting geen overeenstemming worden bereikt, dan neemt de procedure haran loop zooals in het Verdrag is voorzien tusschen de Verdragsluitende Partijen en met slechts voor haar geldend gevolg.

(4) Voor het geval, dat Duitschland tot het Permanente Hof van

(1) The Contracting Parties are agreed that in doubtful cases the stipulations of the present Convention shall be interpreted in favour of the application of the principle of settlement of disputes by arbitration.

(2) The Contracting Parties declare that the Convention shall also apply to disputes arising out of events which occurred prior to its conclusion. In consideration of their general political bearing, an exception shall, however, be made with regard to disputes arising directly out of the world-war.

(3) The Convention shall not cease to be applicable for the reason that a third State is concerned in a dispute. The Contracting Parties shall endeavour, if necessary, to induce the third State to agree to refer the dispute to arbitration or conciliation. In this case the two Governments may, if they so desire, jointly provide that the Tribunal or the Permanent Board of Conciliation shall be composed of members specially chosen for the case. If no agreement is reached with the third State as regards its accession within a reasonable period, the case shall proceed in accordance with the provisions of the Convention, but with effect only as regards the Contracting Parties.

(4) In the event of Germany adhering to the Permanent Court

Internationale Justitie te 's Gravenhage toetreedt of Lid van den Volkenbond wordt, zullen rechts-geschillen ten aanzien waarvan tusschen Partijen geen overeenstemming is bereikt over de vraag, of zij aan het Permanente Hof van Internationale Justitie dan wel aan een Scheidsgerecht zullen worden voorgelegd, op aanvraag van een der Partijen een maand na aankondiging aan de wederpartij rechtstreeks voor het Permanente Hof van Internationale Justitie gebracht kunnen worden. Hetzelfde geldt in geval een algemeen arbitrageverdrag tusschen Duitschland en een derde Mogendheid van kracht mocht worden, dat een overeenkomstige bepaling bevat.

's-Gravenhage, den zosten Mei 1926.

v. Karnebeek  
v. Lucius

of International Justice at The Hague, or becoming a Member of the League of Nations, legal disputes in respect of which the Parties cannot agree whether they should be referred to the Permanent Court of International Justice or to an Arbitration Tribunal, may, at the request of one Party within one month after the other Party has been notified, be referred directly to the Permanent Court of International Justice. This provision shall also apply, if a general treaty of arbitration containing a corresponding clause should come into force between Germany and a third Power.

The Hague, May 20, 1926.

v. Karnebeek  
v. Lucius

#### PERMANENT COMMISSION OF CONCILIATION

##### *President appointed by both Parties*

ERNST TRYGGER, Member of the State Tribunal and former Minister of Justice of Sweden. (*Swedish.*)

##### *Members appointed by both Parties*

ARNOLD RAESTAD, former Minister for Foreign Affairs of Norway. (*Norwegian.*)

A. SOLDATI, Judge of the Federal Tribunal of Switzerland. (*Swiss.*)

##### *Member appointed by Germany*

HEINRICH TRIEPEL, Professor at the University of Berlin. (*German.*)

##### *Member appointed by the Netherlands*

JONKHEER VAN KARNEBEEK, former Minister for Foreign Affairs of the Netherlands. (*Dutch.*)



## No. 67

AUSTRIA-SWEDEN: TREATY OF CONCILIATION,  
ARBITRATION, AND COMPULSORY  
ADJUDICATION

Signed at Stockholm May 28, 1926; ratifications exchanged March 29, 1927.

Original text from Sweden, *Överenskommelser med främmande makter*, 1927, No. 4;<sup>1</sup>  
English translation from League of Nations, *Treaty Series*, LXI, 195-205.

(Translation)

Sa Majesté le Roi de Suède et le Président Fédéral de la République d'Autriche,

animés du désir de développer les relations amicales qui unissent les deux pays,

décidés à donner, dans leurs rapports réciproques, une large application aux principes dont s'inspire la Société des Nations,

ont résolu de conclure un Traité de conciliation et d'arbitrage et ont nommé à cet effet pour leurs Plénipotentiaires, savoir:

Sa Majesté le Roi de Suède:

Monsieur Bo Östen Undén, Son Ministre des Affaires Etrangères;

Le Président Fédéral de la République d'Autriche:

Monsieur Charles Buchberger, Chargé d'Affaires d'Autriche à Stockholm;

lesquels, après avoir échangé leurs pleins pouvoirs reconnus en bonne et due forme, sont convenus des dispositions suivantes:

His Majesty the King of Sweden and the Federal President of the Republic of Austria, being desirous of developing the friendly relations which unite the two countries, and having decided that their relations with one another shall be governed in the largest possible measure by the principles on which the League of Nations is based, have resolved to conclude a Treaty of Conciliation and Arbitration, and for this purpose have appointed as their Plenipotentiaries:

His Majesty the King of Sweden:

M. Bo Östen Undén, His Minister for Foreign Affairs;

The Federal President of the Republic of Austria:

M. Charles Buchberger, Austrian Chargé d'Affaires at Stockholm;

Who, having exchanged their full powers, found in good and due form, have agreed upon the following provisions:

PARTIE I

ARTICLE 1<sup>er</sup>. Toutes contestations entre la Suède et l'Autriche, de quelque nature qu'elles soient, au sujet desquelles les Parties se contesteraient réciproquement un droit, et qui n'auraient pu être réglées à l'amiable par les procédés

PART I

ARTICLE 1. All disputes between Sweden and Austria of whatever nature with regard to which the Parties are in conflict as to their respective rights and which it may not be possible to settle amicably by the normal methods of diplo-

<sup>1</sup> See also League of Nations, *Treaty Series*, LXI, 194.

diplomatiques ordinaires, seront soumises pour jugement à la Cour permanente de Justice internationale ainsi qu'il est prévu ci-après.

Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres conventions en vigueur entre la Suède et l'Autriche, seront réglées conformément aux dispositions de ces conventions.

ART. 2. Avant toute procédure devant la Cour permanente de Justice internationale, la contestation pourra être, d'un commun accord entre les Parties, soumise à fin de conciliation à une Commission internationale permanente, dite Commission permanente de conciliation, constituée conformément au présent Traité.

ART. 3. La Commission permanente de conciliation prévue à l'article 2 sera composée de cinq membres, qui seront désignés comme il suit, savoir: le Gouvernement suédois et le Gouvernement autrichien nommeront chacun un commissaire choisi parmi leurs nationaux respectifs et désigneront, d'un commun accord, les trois autres commissaires parmi les ressortissants de tierces Puissances; ces trois commissaires devront être de nationalités différentes et, parmi eux, les Gouvernements suédois et autrichien désigneront le président de la Commission.

Les commissaires sont nommés pour trois ans; leur mandat est renouvelable. Ils resteront en fonctions jusqu'à leur remplacement et, dans tous les cas, jusqu'à l'achèvement de leurs travaux en cours au moment de l'expiration de leur mandat.

Il sera pourvu, dans le plus bref délai, aux vacances qui viendraient à se produire, par suite de décès, de démission ou de quelque autre em-

macy, shall be submitted for decision to the Permanent Court of International Justice, as provided hereinafter.

Disputes for the settlement of which a special procedure is laid down in other conventions in force between Sweden and Austria shall be settled in conformity with the provisions of those conventions.

ART. 2. Before any recourse is had to the Permanent Court of International Justice the dispute may, by agreement between the Parties, be submitted with a view to amicable settlement to a permanent international commission styled the "Permanent Conciliation Commission" constituted in accordance with the present Treaty.

ART. 3. The Permanent Conciliation Commission mentioned in Article 2 shall be composed of five members, who shall be appointed as follows: the Swedish Government and the Austrian Government shall each nominate a commissioner from among their respective nationals and shall appoint, by common agreement, the three other commissioners from among the nationals of third Powers. Those three commissioners must be of different nationalities, and the Swedish and the Austrian Governments shall appoint the President of the Commission from among them.

The commissioners are appointed for three years and their mandate is renewable. Their appointment shall continue until their replacement or in any case until the termination of the work in hand at the moment of the expiry of their mandate.

Vacancies which may occur as a result of death, resignation or any other cause, shall be filled within

pêchement, en suivant le mode fixé pour les nominations.

ART. 4. La Commission permanente de conciliation sera constituée dans les six mois qui suivront l'entrée en vigueur de présent Traité.

Si la nomination des commissaires à désigner en commun n'intervenait pas dans ledit délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, le Président de la Confédération suisse sera, à défaut d'autre entente, prié de procéder aux désignations nécessaires.

ART. 5. La Commission permanente de conciliation sera saisie, par voie de requête adressée au président, par les deux Parties agissant d'un commun accord ou, à défaut, par l'une ou l'autre des Parties.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à la Partie adverse.

ART. 6. Dans un délai de 15 jours à partir de la date où le Gouvernement suédois ou le Gouvernement autrichien aurait porté une contestation devant la Commission permanente de conciliation, chacune des Parties pourra, pour l'examen de cette contestation, remplacer son commissaire par une personne possédant une compétence spéciale dans la matière.

the shortest possible time in the manner laid down for the nominations.

ART. 4. The Permanent Conciliation Commission shall be instituted within six months from the entry into force of the present Treaty.

If the nomination of the commissioners who have to be appointed by common agreement should not have taken place within the aforesaid period, or in the case of the filling of a vacancy, within three months from the date when the seat falls vacant, the President of the Swiss Confederation shall, in the absence of an agreement, be requested to make the necessary appointment.

ART. 5. Disputes shall be referred to the Permanent Conciliation Commission by means of a request addressed to the President by the two Parties, acting in agreement, or, in the absence of such agreement, by one or other of the Parties.

The request shall give a summary account of the subject of the dispute and shall invite the Commission to take all necessary measures with a view to arriving at an amicable settlement.

If the request emanates from one Party only, notification thereof shall be made without delay to the other Party.

ART. 6. Within fifteen days from the date on which the Swedish Government or the Austrian Government shall have brought a dispute before the Permanent Conciliation Commission, either Party may replace, for the examination of the particular dispute, its own Commissioner by a person possessing special competence in the matter.

La Partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie, celle-ci aura, dans ce cas, la faculté d'aguer de même, dans un délai de 15 jours à partir de la date où la notification lui sera parvenue

ART 7 La Commission permanente de conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

À la fin de ses travaux la Commission dressera un procès verbal constatant, suivant le cas, soit que les Parties se sont arrangées et s'il y a lieu, les conditions de l'arrangement soit que les Parties n'ont pu être conciliées.

Les travaux de la Commission devront à moins que les Parties en conviennent différemment être terminés dans le délai de six mois à compter du jour où la Commission aura été saisie du litige.

ART 8 À moins de stipulation spéciale contraire la Commission permanente de conciliation réglera elle-même sa procédure qui dans tous les cas devra être contradictoire. En matière d'enquêtes la Commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du titre III (Commissions internationales d'enquête) de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART 9 La Commission permanente de conciliation se réunira,

The Party availing itself of this right shall at once notify the other Party. The latter shall, in that case, be entitled to take similar action within fifteen days from the date on which it shall have received notification.

ART 7 The task of the Permanent Conciliation Commission shall be to elucidate questions in dispute, to collect for this purpose all necessary information by means of enquiry or otherwise and to make every effort to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of settlement which seem suitable to it and lay down a period within which they are to make their decision.

At the close of its labours, the Commission shall draw up a report stating either that the Parties have come to an arrangement and, if the case arises, the terms of such agreement or that it has been impossible to effect a settlement.

The labours of the Commission must unless the Parties otherwise agree be terminated within six months from the date on which the dispute was first submitted to the Commission.

ART 8 Lacking any special provision to the contrary the Permanent Conciliation Commission shall lay down its own procedure, which, in any case must provide for both Parties being heard. In regard to enquiries, the Commission unless it unanimously decides otherwise shall act in accordance with the provisions of Title III (International Commissions of Enquiry) of The Hague Convention of October 18, 1907 for the Pacific Settlement of International Disputes.

ART 9 The Permanent Conciliation Commission shall meet, in

sauf accord contraire entre les Parties, au lieu désigné par son président.

ART. 10. Les travaux de la Commission permanente de conciliation ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties.

ART. 11. Les Parties seront représentées auprès de la Commission permanente de conciliation par des agents ayant mission de servir d'intermédiaire entre elles et la Commission; elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraît utile.

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties, ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement.

ART. 12. Sauf disposition contraire du présent Traité, les décisions de la Commission permanente de conciliation seront prises à la majorité des voix. Chaque membre disposera d'une voix; en cas de partage, la voix du président sera décisive.

La Commission ne pourra prendre des décisions portant sur le fond du différend que si tous les membres sont présents.

ART. 13. Les Gouvernements suédois et autrichien s'engagent à faciliter les travaux de la Commission permanente de conciliation et, en particulier, à lui fournir dans la plus large mesure possible tous documents et informations utiles, ainsi qu'à user des moyens dont ils disposent pour lui permettre de

the absence of agreement by the Parties to the contrary, at a place selected by its President.

ART. 10. The labours of the Permanent Conciliation Commission shall not be public, except when a contrary decision has been taken by the Commission with the consent of the Parties.

ART. 11. The Parties shall be represented before the Permanent Conciliation Commission by agents whose duty it shall be to act as intermediaries between them and the Commission; they may, moreover, be assisted by counsel and experts appointed by them for that purpose and they may request that all persons whose evidence appears to be useful should be heard.

The Commission on its side shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties, as well as from all persons it may think useful to summon with the consent of their Government.

ART. 12. Unless otherwise provided in the present Treaty, the decisions of the Permanent Conciliation Commission shall be taken by a majority. Each member shall have one vote; the President shall have a casting vote.

The Commission shall not have power to take any decision relative to the substance of the dispute unless all the members are present.

ART. 13. The Swedish Government and the Austrian Government undertake to facilitate the labours of the Permanent Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to allow

procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux

ART 14 Pendant la durée des travaux de la Commission permanente de conciliation, chacun des commissaires recevra une indemnité dont le montant sera arrêté, d'un commun accord, entre les Gouvernements suédois et autrichien

Chaque Gouvernement supportera ses propres frais et une part égale des frais communs de la Commission, les indemnités des commissaires étant comprises parmi ces frais communs

ART 15 A défaut de conciliation devant la Commission permanente de conciliation, la contestation sera soumise par voie de compromis à la Cour permanente de Justice internationale, dans les conditions et suivant la procédure prévues par son statut

A défaut d'accord entre les Parties sur le compromis et après un préavis d'un mois, l'une ou l'autre d'entre elles aura la faculté de porter directement par voie de requête la contestation devant la Cour permanente de Justice internationale

## PART II

ART 16 Toutes questions autres que celles visées à l'article 1<sup>er</sup> sur lesquelles le Gouvernement suédois et le Gouvernement autrichien seraient divisés sans pouvoir les résoudre à l'amiable par les procédés diplomatiques ordinaires, et pour lesquelles une procédure de règlement ne serait pas déjà prévue par un Traité en vigueur entre les Parties, seront soumises à la Commis-

it to proceed in their territory and in accordance with their law to the summoning and hearing of witnesses or experts, and to visit the localities in question

ART 14 During the labours of the Permanent Conciliation Commission each Commissioner shall receive remuneration, the amount of which shall be fixed by joint agreement between the Swedish and Austrian Governments

Each Government shall pay its own expenses and shall contribute an equal share to the joint expenses of the Commission, the remuneration of the Commissioners being included in these joint expenses

ART 15 In the event of no amicable agreement being reached before the Permanent Conciliation Commission, the dispute shall be submitted, by means of a special agreement, to the Permanent Court of International Justice under the conditions and according to the procedure laid down by its Statute

If the Parties cannot agree on the terms of the special agreement after a month's notice, one or other of them may bring the dispute directly before the Permanent Court of International Justice by means of an application

## PART II

ART 16 All questions other than those mentioned in Article 1 on which the Swedish Government and the Austrian Government disagree, without being able to reach an amicable solution by means of the normal methods of diplomacy, and for the settlement of which no procedure has been laid down by other conventions in force between the Parties, shall be submitted to

sion permanente de conciliation, qui sera chargée de proposer aux Parties une solution acceptable et, dans tous les cas, de présenter un rapport.

La procédure prévue par les articles 5 à 14 de présent Traité sera appliquée.

ART. 17. Si, dans le mois qui suivra la clôture des travaux de la Commission permanente de conciliation, les deux Parties ne se sont pas entendues, la question sera, à la requête de l'une ou de l'autre Partie, soumise pour décision à un tribunal d'arbitrage constitué, à moins d'accord spécial entre les Parties, conformément aux dispositions de l'article 45 de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux. Ce tribunal suivra, dans la mesure où elle s'y prête, la procédure prévue au titre IV, chapitre III de la dite Convention. Toutefois, si dans un délai de six mois à dater du jour où l'une des Parties aura adressé à l'autre une demande tendant à soumettre le différend à l'arbitrage, le compromis visé par la dite Convention de La Haye n'a pas été signé, il sera établi, à la demande de l'une des Parties, par le Tribunal arbitral.

Le Tribunal statuera *ex aequo et bono*.

La sentence arbitrale spécifiera s'il y a lieu les modalités d'exécution, notamment en fixant des délais d'exécution.

#### DISPOSITIONS GÉNÉRALES

ART. 18. S'il s'agit d'une contestation dont l'objet, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux de celle-ci,

the Permanent Conciliation Commission, whose duty it shall be to propose to the Parties an acceptable solution, and, in any case, to present a report.

The procedure laid down in Articles 5 to 14 of the present Treaty shall be applicable.

ART. 17. If the two Parties have not reached an agreement within one month of the termination of the labours of the Permanent Conciliation Commission, the question shall, at the request of either Party, be brought before an arbitral tribunal, which shall be constituted, unless otherwise agreed between the Parties, in conformity with the provisions of Article 45 of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes. This tribunal shall follow, so far as may be applicable, the procedure laid down in Title IV, Chapter III of the said Convention. Notwithstanding, if within six months from the date on which one of the Parties has applied to the other with a view to submitting the dispute to arbitration, the special agreement (*compromis*) mentioned in the said Hague Convention has not been signed, it shall be established at the request of one of the Parties, by the arbitral tribunal.

The tribunal shall give its decision *ex aequo et bono*.

The arbitral decision shall, if necessary, specify the formalities for execution, and shall, more particularly, fix the time-limits for execution.

#### GENERAL PROVISIONS

ART. 18. In the case of a dispute concerning a matter which, under the internal legislation of one of the Parties, comes within the jurisdiction of the national tribunals of

y compris les tribunaux administratifs, cette Partie pourra s'opposer à ce que le différend soit soumis à la procédure prévue par le présent Traité avant qu'un jugement passé en force de chose jugée ne soit rendu, dans des délais raisonnables, par l'autorité judiciaire nationale compétente.

ART. 19. Les Gouvernements suédois et autrichien s'engagent à s'abstenir, durant le cours d'une procédure ouverte en vertu des dispositions du présent Traité, de toute mesure susceptible d'avoir une répercussion préjudiciable, soit à l'exécution de l'arrêt de la Cour permanente de Justice internationale ou de la décision arbitrale, soit aux arrangements proposés par la Commission permanente de conciliation, et en général à ne procéder à aucun acte, de quelque nature qu'il soit, susceptible d'aggraver ou d'étendre le différend.

Dans tous les cas et notamment si la question au sujet de laquelle les Parties sont divisées résulte d'actes déjà effectués ou sur le point de l'être, la Cour permanente de Justice internationale, statuant conformément à l'article 41 de son statut, indiquera dans le plus bref délai possible quelles mesures provisoires doivent être prises. Il appartiendra également au Tribunal d'arbitrage saisi d'un différend en vertu des dispositions de l'article 17 du présent Traité d'indiquer les mesures provisoires appropriées. Les Hautes Parties Contractantes s'engagent à appliquer les mesures provisoires indiquées par la Cour ou par le Tribunal d'arbitrage.

ART. 20. Si la sentence judiciaire ou arbitrale déclarait qu'une décision prise ou une mesure ordonnée par une autorité judiciaire ou toute autre autorité de l'un des

such Party, including the administrative tribunals, the said Party may object to the dispute being made subject to the procedure laid down in the present Treaty, until a judgment possessing the force of *res judicata* has been given within a reasonable time by the competent national judicial authority.

ART. 19. The Swedish and Austrian Governments undertake, during the course of proceedings commenced in virtue of the provisions of the present Treaty, to abstain from all measures which might prejudicially affect, on the one hand, the execution of the decision of the Permanent Court of International Justice or the arbitral decision, or, on the other, the arrangements proposed by the Permanent Conciliation Commission, and in general, not to commit any act of any kind which might aggravate or extend the dispute.

In any case, and particularly if the question on which the Parties differ arises out of acts already committed or on the point of commission, the Permanent Court of International Justice, acting in accordance with Article 41 of its Statute, shall indicate, within the shortest possible time, the provisional measures to be adopted. It shall similarly be the duty of the arbitral tribunal, if a dispute is brought before it in virtue of the provisions of Article 17 of the present Treaty, to indicate suitable provisional measures. The High Contracting Parties undertake to accept the provisional measures thus indicated by the Court or by the arbitral tribunal.

ART. 20. If, by the terms of a judicial or arbitral award, a decision passed, or a measure ordered by a judicial or other authority of either of the two States is entirely



deux Etats se trouve entièrement ou partiellement en opposition avec le droit international, et si le droit constitutionnel du dit Etat ne permettrait pas ou ne permettait qu'en partie d'effacer les conséquences de cette décision ou de cette mesure, les Parties conviennent qu'il devra être accordé par la sentence judiciaire ou arbitrale, à la Partie lésée, une satisfaction équitable d'un autre ordre.

ART. 21. Tous différends relatifs à l'interprétation du présent Traité seront soumis à la Cour permanente de Justice internationale.

ART. 22. Le présent Traité sera ratifié, par Sa Majesté le Roi de Suède avec approbation du Riksdag.

L'échange des ratifications aura lieu à Stockholm aussitôt que faire se pourra.

Le Traité est conclu pour une durée de dix ans à compter de la date de l'échange des ratifications. S'il n'est pas dénoncé six mois au moins avant l'expiration de ce terme, il demeurera en vigueur pour une nouvelle période de cinq ans et ainsi de suite.

En foi de quoi, les Plénipotentiaires ont signé le présent Traité.

Fait à Stockholm, en double exemplaire, le 28 mai 1926.

Osten Undén  
Buchberger

or in part contrary to international law, and if under the constitutional law of the said State, the consequences of such decision or measure cannot be annulled, or can only be partially annulled, the Parties agree that the injured Party shall be given equitable satisfaction in some other form, by judicial or arbitral award.

ART. 21. All disputes regarding the interpretation of this Treaty shall be submitted to the Permanent Court of International Justice.

ART. 22 The present Treaty shall be ratified by His Majesty the King of Sweden with the approval of the Riksdag

The exchange of ratifications shall take place at Stockholm as soon as possible.

The Treaty shall be concluded for ten years, reckoned from the date of the exchange of ratifications. Unless it shall have been denounced at least six months before the expiration of this term, it shall remain in force for a further period of five years, and so on for successive periods

In faith whereof, the Plenipotentiaries have signed the present Treaty.

Done at Stockholm, in duplicate, May 28, 1926.

Osten Undén  
Buchberger

#### PROTOCOL OF SIGNATURE

Au moment de procéder à la signature, en date de ce jour, d'un Traité de conciliation et d'arbitrage entre la Suède et l'Autriche, les soussignés, dûment autorisés à cet effet, sont convenus de la disposition suivante:

Before proceeding to sign the Treaty of Conciliation and Arbitration concluded this day between Sweden and Austria, the undersigned, duly authorised thereto, agreed as follows:

Aussi longtemps que le Gouvernement Fédéral de la République d'Autriche n'aura pas adhéré à la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux, Il aura la faculté, lorsqu'Il procédera à la désignation de membres du Tribunal d'arbitrage visé à l'article 17 du susdit Traité entre la Suède et l'Autriche, de choisir un de ses propres nationaux en dehors de la liste générale des membres de la Cour permanente d'arbitrage.

En foi de quoi, les Plénipotentiaires ont Signé le présent Protocole.

Fait à Stockholm, en double exemplaire, le 28 mai 1926.

Östen Undén  
Buchberger

Until such time as the Federal Government of the Republic of Austria shall have acceded to the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes, it shall be entitled, when selecting the members of the arbitral tribunal mentioned in Article 17 of the said Treaty between Sweden and Austria, to choose one of its own nationals not on the general list of members of the Permanent Court of Arbitration.

In faith whereof, the Plenipotentiaries have signed the present Protocol.

Done at Stockholm, in duplicate, May 28, 1926.

Östen Undén  
Buchberger

#### PERMANENT COMMISSION OF CONCILIATION

(Appointed September 29, 1927)

##### *President appointed by both Parties*

JOSEPH LIMBURG, Member of the Council of State of the Netherlands.  
(Dutch.)

##### *Members appointed by both Parties*

HENRY ROLIN, Legal Adviser to the Ministry for Foreign Affairs of Belgium. (Belgian.)

ARNOLD RALSTAD, former Minister for Foreign Affairs of Norway.  
(Norwegian)

##### *Member appointed by Austria*

JOHN A. EICHHOFF, former Minister of Austria to France. (Austrian.)

##### *Member appointed by Sweden*

EMIL SANDSTRÖM, Adviser to the Supreme Court of Sweden, President of the Third Division of the Anglo-German Mixed Arbitral Tribunal.  
(Swedish.)

## No. 68

DENMARK-GERMANY TREATY OF CONCILIATION,  
ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Berlin June 2, 1926, ratifications exchanged April 9, 1927

Original text from Germany, *Reichsgesetzblatt*, 1927 II No 8<sup>1</sup> English translation from League of Nations, *Treaty Series* LXI 339 351

(Translation)

Das Deutsche Reich und das Königreich Danemark, von dem Wünsche erfüllt, die Entwicklung des Verfahrens zur friedlichen Beilegung zwischenstaatlicher Streitigkeiten zu fördern, sind übereingekommen, einen allgemeinen Schiedsgerichts und Vergleichsvertrag abzuschliessen

Zu diesem Zwecke haben zu Bevollmächtigten ernannt

Der Deutsche Reichspräsident den Reichsminister des Auswärtigen Herrn Dr Gustav Stresemann,

Seine Majestät der König von Danemark und Island

den ausserordentlichen Gesandten und bevollmächtigten Minister in Berlin, Kammerherrn Herluf Zahle,

die, nachdem sie ihre Vollmachten geprüft und in guter und gehöriger Form befunden haben, übereingekommen sind

ARTIKEL I Die vertragschliessenden Teile verpflichten sich alle Streitigkeiten irgendwelcher Art, die zwischen Deutschland und Danemark entstehen und nicht in angemessener Frist auf diplomatischem Wege geschlichtet werden können, und die nicht mit Zustimmung beider Parteien dem Ständigen Internationalen Gerichtshof

The German Reich and The Kingdom of Denmark, being desirous of promoting the development of the procedure for the pacific settlement of international disputes have agreed to conclude a general Treaty of arbitration and conciliation

For this purpose they have appointed as their Plenipotentiaries

The President of the German Reich

Dr Gustav Stresemann, Reichsminister for Foreign Affairs,

His Majesty the King of Denmark and Iceland

M Herluf Zahle, Chamberlain, Envoy Extraordinary and Minister Plenipotentiary at Berlin

Who, having communicated their full powers found in good and due form, have agreed on the following provisions

ARTICLE I The Contracting Parties undertake to submit to the procedure of arbitration or conciliation in conformity with the present Treaty, all disputes of any nature whatsoever which may arise between Germany and Denmark and which it has not been possible to settle within a reasonable period by diplomacy or to bring with the

<sup>1</sup> See also League of Nations *Treaty Series*, LXI 326 The Danish text is also authentic

unterbreitet werden, nach Massgabe des gegenwärtigen Vertrags entweder einem Schiedsgerichtsverfahren oder einem Vergleichsverfahren zu unterwerfen.

Streitigkeiten, für deren Schlichtung die vertragschliessenden Teile durch andere zwischen ihnen bestehende Abmachungen an ein besonderes Verfahren gebunden sind, werden nach Massgabe der Bestimmungen dieser Abmachungen behandelt.

ART. 2. Dem Schiedsgerichtsverfahren werden auf Verlangen einer Partei diejenigen Streitigkeiten unterworfen, bei denen die Parteien untereinander über ein Recht im Streite sind, insbesondere diejenigen Streitigkeiten, die betreffen:

erstens: Bestand, Auslegung und Anwendung eines zwischen den beiden Parteien geschlossenen Staatsvertrags;

zweitens: irgendeine Frage des internationalen Rechts;

drittens: das Bestehen einer Tatsache, die, wenn sie erwiesen wird, die Verletzung einer zwischenstaatlichen Verpflichtung bedeutet;

viertens: Umfang und Art der Wiedergutmachung im Falle einer solchen Verletzung.

Bestehen zwischen den Parteien Meinungsverschiedenheiten darüber, ob eine Streitigkeit zu den vorstehend bezeichneten Arten gehört, so wird über diese Vorfrage im Schiedsgerichtsverfahren entschieden.

ART. 3. Bei Fragen, die gemäss den Landesgesetzen der Partei, gegen die ein Begehren geltend gemacht wird, von richterlichen Behörden, mit Einschluss der Verwaltungsgerichte, zu entscheiden sind, kann diese Partei verlangen, dass die Streitigkeiten dem Schiedsgerichtsverfahren erst unterworfen

consent of both Parties, before the Permanent Court of International Justice.

Disputes for the solution of which a special procedure has been laid down in other conventions in force between the Contracting Parties shall be settled in accordance with the provisions of such conventions.

ART. 2. The disputes which, at the request of either of the Parties, shall be submitted to arbitration procedure are those arising between the two Parties with regard to points of law, and particularly with regard to the following subjects:

Firstly, the existence, interpretation and application of any treaty concluded between the two Parties;

Secondly, any question of international law;

Thirdly, the existence of any fact which, if established, would constitute a breach of an international obligation;

Fourthly, the extent and nature of the reparation to be made for any such breach.

In the case of disagreement between the Parties as to whether a dispute falls under one of the above categories, this prior question shall be settled by arbitration.

ART. 3. In regard to questions which, under the national laws of the Party against which a demand has been formulated, fall within the competence of the judicial authorities, including the administrative tribunals, such Party may require that the dispute shall not be submitted to arbitration until judg-

werden, nachdem in dem Gerichtsverfahren eine endgültige Entscheidung gefällt worden ist, und dass die Anrufung des Schiedsgerichts spätestens sechs Monate nach dieser Entscheidung erfolge. Dies gilt nicht, wenn es sich um einen Fall von Rechtsverweigerung handelt und die gesetzlich vorgesehenen Beschwerdestellen angerufen worden sind.

Entsteht zwischen den Parteien eine Meinungsverschiedenheit über die Anwendung der vorstehenden Bestimmung, so wird darüber im Schiedsgerichtsverfahren entschieden.

ART. 4. Das Schiedsgericht legt seinen Entscheidungen zugrunde  
erstens: die zwischen den Parteien geltenden Übereinkünfte allgemeiner oder besonderer Art und die sich daraus ergebenden Rechtsätze;

zweitens: das internationale Gewohnheitsrecht als Ausdruck einer allgemeinen als Recht anerkannten Übung;

drittens: die allgemeinen von den Kulturstaaen anerkannten Rechtsgrundsätze;

viertens: die Ergebnisse bewährter Lehre und Rechtsprechung als Hilfsmittel für die Feststellung der Rechtsnormen.

Mit Zustimmung beider Parteien kann das Schiedsgericht seine Entscheidung, anstatt sie auf Rechtsgrundsätze zu stützen, nach billigem Ermessen treffen.

ART. 5. Sofern nicht die Parteien im einzelnen Falle eine entgegenstehende Vereinbarung treffen, wird das Schiedsgericht in folgender Weise bestellt:

Die Richter werden auf der Grundlage des Verzeichnisses der Mitglieder des durch das Haager Abkommen zur friedlichen Erledi-

ment with final effect has been pronounced by these authorities, and, further, that the matter shall be brought before the arbitration tribunal not later than six months after the date of such decision. The above provisions shall not apply if justice has been refused and if the matter has been brought before the appeal authorities provided for by law.

Disputes between the Parties regarding the application of the preceding provision shall be settled by arbitration.

ART. 4. The tribunal shall base its decisions:

Firstly, on general or special Conventions in force between the Parties, and the principles of law arising therefrom;

Secondly, international custom as evidence of a general usage accepted as law,

Thirdly, the general principles of law recognised by civilised nations;

Fourthly, the results of recognised doctrine and legal practice as aids in the establishment of rules of law.

Subject to the consent of the two Parties, the arbitral tribunal may, instead of basing its decision on legal principles, give an award in accordance with considerations of equity.

ART. 5. In the absence of agreement to the contrary between the Parties in each particular case, the arbitration tribunal shall be constituted as follows:

The arbitrators shall be chosen from the list of members of the Permanent Court of Arbitration established by The Hague Convention of

gung internationaler Streitfälle vom 18. Oktober 1907 geschaffenen Ständigen Schiedshofs im Haag gewählt.

Jede Partei ernennt zwei Schiedsrichter, von denen nur der eine ihr eigener Staatsangehöriger sein darf. Gemeinsam berufen die Parteien den fünften Richter, der zugleich Vorsitzender des Schiedsgerichts ist. Der Vorsitzende muss eine andere Staatsangehörigkeit als die anderen Schiedsrichter besitzen. Er darf seinen Wohnsitz nicht auf dem Gebiet einer Partei haben und nicht in deren Dienst stehen oder gestanden haben.

Die Wahl der Richter erfolgt von neuem für jeden einzelnen Streitfall. Die vertragschliessenden Teile behalten sich jedoch vor, im gemeinsamen Einverständnis in der Weise vorzugehen, dass für gewisse Arten von Streitfällen während eines bestimmten Zeitraums dieselben Richter dem Schiedsgericht angehören.

Mitglieder des Schiedsgerichts, die aus irgendeinem Grunde ausscheiden, werden in der gleichen Weise ersetzt, wie sie berufen worden sind.

ART. 6. Die vertragschliessenden Teile werden in Ausführung des gegenwärtigen Vertrags in jedem Einzelfall eine besondere Schiedsordnung festsetzen. Darin werden der Streitgegenstand, die etwaigen besonderen Befugnisse des Gerichts, dessen Zusammensetzung und Sitz, die Höhe des von jeder Partei als Kostenvorschuss zu hinterlegenden Betrags, die hinsichtlich der Form und der Fristen des Verfahrens zu beobachtenden Regeln sowie die sonst notwendigen Einzelheiten bestimmt.

Meinungsverschiedenheiten über die Bestimmungen der Schiedsordnung werden, vorbehaltlich des

October 18th, 1907, for the Pacific Settlement of International Disputes.

Each Party shall appoint two arbitrators, of whom one only shall be a national of that Party. The Parties shall jointly nominate the fifth arbitrator, who shall also be the President of the tribunal. The President shall not be of the same nationality as any of the other arbitrators. He may not be domiciled within the territory of either Party, and he may not be or have been in the service of either Party.

New arbitrators shall be chosen for each individual dispute. The Contracting Parties, however, reserve the right to concert measures so that for a certain class of dispute the tribunal shall consist of the same arbitrators for a definite period.

Vacancies occurring in the tribunal for any cause whatsoever shall be filled in the manner fixed for the nominations.

ART. 6. In each individual case the Contracting Parties shall, in pursuance of the present Treaty, draw up a special agreement (*compromis*) stating the subject of the dispute, any special powers conferred on the tribunal, its composition, the place where it shall meet, the amount that each Party shall deposit in advance to cover expenses, the rules to be observed in regard to the form and time-limits of the proceedings, and any other details that may be necessary.

Any disputes regarding the terms of the special agreement shall, subject to the provisions of Article 7,

**Artikel 7, vom Schiedsgericht entschieden**

**ART 7** Kommt zwischen den Parteien nicht binnen sechs Monaten, nachdem die eine der anderen das Begehren nach schiedsgerichtlicher Austragung einer Streitigkeit mitgeteilt hat die Schiedsordnung zustande so kann jede Partei den im Artikel 13 vorgesehenen Standigen Vergleichsrat zwecks Feststellung der Schiedsordnung anrufen. Dieser hat binnen zwei Monaten nach seiner Anrufung die Schiedsordnung festzusetzen, wobei der Streitgegenstand aus den Anträgen der Parteien ermittelt wird.

Es ist ebenso zu verfahren wenn eine Partei die von ihr zu ernennenden Richter nicht bezeichnen oder wenn die Parteien in der Bezeichnung des Vorsitzenden nicht einig sind.

Der Standige Vergleichsrat ist ferner befugt, bis zur Bestellung des Schiedsgerichts über jede andere Streitigkeit zu entscheiden die sich auf die Schiedsordnung bezieht.

**ART 8** Das Schiedsgericht trifft seine Entscheidungen mit einfacher Stimmenmehrheit. Die abweichende Ansicht eines in der Minorität gebliebenen Mitglieds wird auf sein Verlangen festgestellt.

**ART 9** Der Schiedsspruch wird Angaben über die Art seiner Ausführung insbesondere über die dabei zu beobachtenden Fristen enthalten.

Wird in einem Schiedsspruch festgestellt dass eine von einem Gericht oder einer anderen Behörde einer Partei getroffene Entscheidung oder Verfügung ganz oder

be settled by the arbitration tribunal

**ART 7** If the special agreement has not been drawn up by the Parties within a period of six months after one Party has notified the other of its intention to refer the dispute to arbitration, either Party may request the Permanent Board of Conciliation provided for under Article 13 to draw up the agreement. The Permanent Board of Conciliation shall, within two months after the question has been submitted to it establish the special agreement the subject of the dispute being determined on the basis of the statements furnished by the Parties.

The same procedure shall be followed when either of the Parties fails to nominate the arbitrators for whose appointment it is responsible or when the Parties cannot agree upon the appointment of the President.

Pending the constitution of the arbitration tribunal the Permanent Board of Conciliation shall also be competent to adjudicate upon any other dispute relating to the special agreement.

**ART 8** The decisions of the arbitration tribunal shall be taken by a majority vote. The opinion of any member of a minority of the tribunal who dissents from the award shall at his request be duly placed on record.

**ART 9** The arbitration award shall specify the manner in which it is to be carried out and in particular indicate the time limits to be observed.

If it is established in an arbitration award that a decision or measure of a court of law or other authority of one of the Parties is wholly or partly at variance with

teilweise mit dem Völkerrecht in Widerspruch steht, können aber nach dem Verfassungsrecht dieser Partei die Folgen der Entscheidung oder Verfügung durch Verwaltungsmassnahmen nicht oder nicht vollständig beseitigt werden, so ist der verletzten Partei in dem Schiedsspruch auf andere Weise eine angemessene Genugtuung zuzuerkennen

ART 10 Unter Vorbehalt anderweitiger Abrede in der Schiedsordnung kann jede Partei bei dem Schiedsgericht, das den Spruch erlassen hat, die Revision dieses Spruchs beantragen. Der Antrag kann nur mit der Ermittlung einer Tatsache begründet werden, die einen entscheidenden Einfluss auf den Spruch auszuüben geeignet gewesen wäre und bei Schluss der Verhandlung dem Schiedsgericht selbst und der Partei welche die Revision beantragt hat ohne ihr Verschulden unbekannt war. Auf Verlangen einer Partei hat das Schiedsgericht zunächst darüber zu entscheiden ob diese Voraussetzungen für den Antrag auf Revision des Schiedsspruchs erfüllt sind.

Mitglieder des Schiedsgerichts die aus irgendeinem Grunde für das Revisionsverfahren ausscheiden werden in der gleichen Weise ersetzt wie sie berufen worden sind.

Die Frist innerhalb deren der in Abs. 1 vorgesehene Antrag gestellt werden kann ist im Schiedsspruch zu bestimmen sofern dies nicht in der Schiedsordnung geschehen ist.

ART 11 Alle Streitigkeiten die zwischen den Parteien über Auslegung und Ausführung des Schiedsspruchs entstehen sollten, unterliegen, vorbehaltlich anderweitiger Abrede der Beurteilung des Schieds

international law, and if the constitutional law of that Party does not permit, or only partially permits, of the consequences of the decision or measure in question being annulled by administrative means, the arbitration award shall allow the injured Party equitable satisfaction of another kind.

ART 10 Subject to any provision to the contrary in the special agreement either Party may submit to the Tribunal which gave the award a request for the revision of the award. This request may only be justified by the discovery of a fact which would have been likely to exercise a decisive influence on the award, and which at the time of the close of the proceedings, was unknown to the tribunal itself and to the Party demanding the revision unless the Party in question was at fault in not being aware of it. At the request of either Party, the arbitration tribunal shall first decide whether the above conditions applicable to a request for revision are fulfilled.

Members of the arbitration tribunal who for any reason do not take part in the revision proceedings shall be replaced in the manner fixed for their appointment.

The period within which the request provided for in the first paragraph may be presented shall be fixed in the arbitral award unless this has already been laid down in the special agreement.

ART 11 Any dispute arising between the Parties as to the interpretation and execution of the arbitral award shall, subject to any agreement to the contrary, be settled by the tribunal which made it. In that



gerichts, das den Spruch gefällt hat. Dabei findet die Bestimmung des Artikel 10 Abs 2 entsprechende Anwendung.

ART 12 Alle Streitigkeiten, die nicht nach den vorhergehenden Artikeln dieses Vertrags dem Schiedsgerichtsverfahren unterworfen werden und die nicht mit Zustimmung beider Parteien auf andere Weise friedlich geregelt werden, sind auf Verlangen einer Partei im Vergleichsverfahren zu behandeln.

Behauptet die andere Partei, dass der im Vergleichsverfahren anhängig gemachte Streitfall von dem Ständigen Internationalen Gerichtshof dem Schiedsgericht oder in einem besonderen Verfahren nach Artikel 1 Abs 2 zu entscheiden sei, so entscheidet über diese Vorfrage das Organ dessen Zuständigkeit behauptet wird.

Die Regierungen der vertragsschliessenden Teile können im gemeinsamen Einverständnis eine Streitigkeit, für die nach dem gegenwärtigen Verträge der Ständige Internationale Gerichtshof oder ein Schiedsgericht angerufen werden kann, endgültig oder unter Vorbehalt der späteren Anrufung des Ständigen Internationalen Gerichtshofs oder eines Schiedsgerichts im Vergleichsverfahren behandeln lassen.

ART 13 Für das Vergleichsverfahren wird ein Ständiger Vergleichsrat gebildet.

Der Ständige Vergleichsrat besteht aus fünf Mitgliedern. Jeder vertragschliessende Teil ernannt zwei Mitglieder, von denen er eines unter seinen eigenen Staatsangehörigen auswählen darf. Gemeinsam berufen die Parteien das fünfte Mitglied, das den Vorsitz führt. Der Vorsitzende muss eine

case the provision contained in the second paragraph of Article 10 shall apply, *mutatis mutandis*

ART 12 Any dispute which under the preceding Articles of the present Treaty cannot be referred to arbitration and which is not settled amicably in some other manner with the consent of the two Parties shall at the request of either of the Parties concerned, be submitted to the procedure of conciliation.

If the opposing Party claims that a dispute for which conciliation procedure has been initiated should be settled by the Permanent Court of International Justice, or by the arbitration tribunal, or by means of a special procedure as provided for in Article 1 second paragraph, the body whose jurisdiction is claimed shall decide this prior question.

The Governments of the Contracting Parties may agree that a dispute which under the terms of the present Treaty can be brought before the Permanent Court of International Justice or an arbitration tribunal shall be submitted to a procedure of conciliation either without appeal or subject to appeal to the Permanent Court of International Justice or an arbitration tribunal.

ART 13 A Permanent Board of Conciliation shall be constituted for the procedure of conciliation.

The Permanent Board of Conciliation shall consist of five members. Each Contracting Party shall appoint two members, one of whom may be one of its own nationals. The Parties shall jointly nominate the fifth member, who shall be the Chairman. The Chairman shall not be of the same nationality as any

andere Staatsangehörigkeit als die anderen Mitglieder besitzen. Er darf seinen Wohnsitz nicht auf dem Gebiete der Parteien haben und nicht in deren Dienst stehen oder gestanden haben.

Die Mitglieder des Ständigen Vergleichsrats werden für die Dauer von drei Jahren ernannt. Mangels anderweitiger Abrede zwischen den vertragschliessenden Teilen kann ihre Ernennung während der Dauer ihres Auftrags nicht zurückgenommen werden. Wenn bei Ablauf des Auftrags eines Mitglieds des Ständigen Vergleichsrats seine Ersetzung nicht erfolgt ist, gilt sein Auftrag für einen Zeitraum von drei Jahren als erneuert. Indessen scheidet der Vorsitzende auf Antrag eines der vertragschliessenden Teile bei Ablauf seines Auftrags aus. Ein Mitglied dessen Auftrag während der Dauer eines im Gange befindlichen Verfahrens abläuft, nimmt an der Behandlung der Streitigkeit bis zur Beendigung des Verfahrens weiter teil, gleichviel ob sein Nachfolger bereits ernannt worden ist oder nicht.

Innerhalb von vierzehn Tagen nach dem Tage, an welchem einer der beiden vertragschliessenden Teile eine Streitfrage vor den Ständigen Vergleichsrat gebracht hat, kann jede der Parteien vorbehaltlich der Bestimmungen des Abs. 2 für die Behandlung dieser Streitfrage eines der von ihr bezeichneten Mitglieder des Ständigen Vergleichsrats durch eine Persönlichkeit ersetzen, die in der Angelegenheit besondere Sachkunde besitzt. Die Partei, die von diesem Rechte Gebrauch macht, teilt das unverzüglich der anderen Partei mit, der es alsdann freisteht, innerhalb von vierzehn Tagen nach dem Tage, an dem ihr die Mitteilung zugegangen ist, das Gleiche zu tun.

other member. He shall not be domiciled within the territory of either Party, nor shall he be or have been in the service of either Party.

The members of the Permanent Board of Conciliation shall be appointed for a period of three years. In the absence of any agreement to the contrary between the Contracting Parties, their appointment may not be revoked during their term of office. Should no successor be appointed to a member of the Board of Conciliation on the expiration of his term of office, that term shall be regarded as renewed for a period of three years. The Chairman shall, however, retire on the expiration of his term of office should either of the Contracting Parties so request. Should the term of office of any member expire while proceedings are still pending, such member shall continue to take part in the examination of the dispute until the termination of the proceedings, whether his successor has been appointed or not.

Subject to the stipulations of the second paragraph of the present Article, either Contracting Party may, within fourteen days from the date when a dispute has been referred to the Permanent Board of Conciliation, replace, for the examination of the particular dispute, one of the members whom it has appointed by a person possessing special competence in the matter. The Party making use of this right shall immediately inform the other Party; the latter shall in that case be entitled to take similar action within fourteen days from the date when the notification reaches it.

Der Ständige Vergleichsrat wird im Laufe von sechs Monaten nach Austausch der Ratifikationsurkunden dieses Vertrags gebildet. Ausscheidende Mitglieder werden gemäss dem für die erstmalige Wahl massgebenden Verfahren so rasch als möglich ersetzt.

Wenn die Berufung des Vorsitzenden nicht innerhalb von sechs Monaten nach dem Austausch der Ratifikationsurkunden oder, im Falle der Neuwahl, nicht innerhalb von drei Monaten nach Ausscheiden des bisherigen Vorsitzenden stattgefunden hat, so wird in Ermangelung anderweitiger Vereinbarung, Seine Majestät der König von Schweden gebeten werden, die erforderliche Ernennung vorzunehmen.

ART 14. Der Ständige Vergleichsrat tritt in Wirksamkeit, sobald er von einer Partei angerufen wird. Diese richtet ihr Begehren gleichzeitig an den Vorsitzenden des Ständigen Vergleichsrats und an die andere Partei. Der Vorsitzende hat den Ständigen Vergleichsrat in kürzester Frist einzuberufen.

Die vertragschliessenden Teile verpflichten sich in allen Fällen und in jeder Hinsicht die Arbeiten des Ständigen Vergleichsrats zu fordern und ihm insbesondere durch die zuständigen Behörden jede Rechtshilfe zu gewähren. Sie werden alle erforderlichen Massnahmen treffen, damit dem Ständigen Vergleichsrat die Möglichkeit gewahrt wird, auf ihrem Gebiete Zeugen und Sachverständige zu vernehmen und Augenschein einzunehmen. Der Ständige Vergleichsrat kann die Beweise entweder in vollständiger Besetzung oder durch den Vorsitzenden erheben.

The Permanent Board of Conciliation shall be constituted in the course of the six months following the exchange of the instruments of ratification of the present Treaty. Retiring members shall be replaced within the shortest possible time in accordance with the procedure laid down for the first election.

Should the Chairman not have been nominated within six months after the exchange of the instruments of ratification or in the case of a subsequent election should a Chairman not have been appointed within three months from the retirement of the previous Chairman, His Majesty the King of Sweden shall in the absence of any other agreement, be requested to make the necessary appointment.

ART 14. The Permanent Board of Conciliation shall enter upon its duties as soon as a dispute is referred to it by either of the Parties. Such Party shall communicate its request simultaneously to the Chairman of the Permanent Board of Conciliation and to the other Party. The Chairman shall summon the Permanent Board of Conciliation to meet at the earliest possible moment.

The Parties undertake to facilitate in all circumstances and in every respect the work of the Permanent Board of Conciliation and in particular to afford it all possible legal assistance through their competent authorities. They shall use all the means at their disposal to allow it to take the evidence of witnesses and experts in their respective territories and to visit the localities in question. The Board may obtain evidence either *in pleno* or through its Chairman.

ART. 15. Der Ständige Vergleichsrat bestimmt seinen Sitz. Er kann ihn nach freiem Ermessen verlegen.

Der Ständige Vergleichsrat bildet nötigenfalls eine Kanzlei. Soweit er in die Kanzlei Angehörige der Parteien beruft, hat er dabei die Parteien gleichmässig zu berücksichtigen.

ART. 16. Der Ständige Vergleichsrat ist beschlussfähig, wenn alle Mitglieder ordnungsmässig geladen und wenn der Vorsitzende und mindestens je eins der von jeder Partei ernannten Mitglieder anwesend sind.

Der Ständige Vergleichsrat trifft seine Entschliessungen mit einfacher Stimmenmehrheit. Im Falle der Stimmengleichheit hat der Vorsitzende eine doppelte Stimme.

ART. 17. Dem Ständigen Vergleichsrat liegt ob, einen Bericht zu erstatten, der den Sachverhalt feststellt und, es sei denn, dass dies nach den besonderen Umständen des Falles nicht angebracht erscheint, Vorschläge für die Beilegung der Streitigkeit enthält. In dem Bericht wird die abweichende Ansicht eines in der Minderheit gebliebenen Mitglieds auf sein Verlangen festgestellt.

Der Bericht ist innerhalb von sechs Monaten nach dem Tage zu erstatten, an dem die Streitigkeit dem Ständigen Vergleichsrat unterbreitet wurde, es sei denn, dass die Parteien diese Frist im gemeinsamen Einverständnis verlängern oder vor dem Zusammentritt des Ständigen Vergleichsrats verkürzen. Der Bericht soll in drei Ausfertigungen verfasst werden, von denen je eine jeder Partei ausgehändigt, die dritte vom Ständigen Vergleichsrat aufbewahrt wird.

Der Bericht hat weder in bezug auf die Tatsachen noch in bezug

ART. 15. The Permanent Board of Conciliation shall fix its place of meeting and shall be at liberty to change it.

The Permanent Board of Conciliation shall, if need be, establish a registry. If it appoints nationals of the Contracting Parties to positions in this office, it shall treat both Parties alike.

ART. 16. The deliberations of the Permanent Board of Conciliation shall be valid if all the members have been duly convened, and if the Chairman and at least one of the members appointed by each Party are present.

Decisions of the Permanent Board of Conciliation shall be taken by a majority vote. If the votes are equally divided the Chairman shall have a casting vote.

ART. 17. The Permanent Board of Conciliation shall draw up a report which shall set out the facts of the case, and shall, unless it may seem undesirable in the particular circumstances of the case, contain proposals for the settlement of the dispute. In the report the opinion of any member of a minority of the Board who dissents from its conclusions shall, at his request, be duly placed on record.

The report shall be submitted within six months from the date on which the dispute was laid before the Permanent Board of Conciliation, unless the Parties agree to extend, or, before the Permanent Board of Conciliation has met, to shorten this time-limit. The report shall be drawn up in three copies, one of which shall be handed to each of the Parties and the third deposited in the archives of the Permanent Board of Conciliation.

The report shall not, either as regards statements of fact or as regards legal considerations, be in the

auf die rechtlichen Ausführungen die Bedeutung einer endgültig bindenden Entscheidung. Bei Mitteilung des Berichts kann der Ständige Vergleichsrat den Parteien anheimstellen, sich innerhalb einer im Bericht festzusetzenden Frist darüber zu erklären, ob und inwieweit sie die Feststellungen des Berichts anerkennen und dessen Vorschläge annehmen.

Es ist Sache der Parteien, im gemeinsamen Einverständnis zu bestimmen, ob der Bericht unverzüglich veröffentlicht werden soll oder nicht. Kommt es jedoch nicht zu einem solchen Einverständnis, so kann der Ständige Vergleichsrat seinerseits aus besonderen Gründen die sofortige Veröffentlichung des Berichts veranlassen.

ART. 18. Jede Partei trägt die Vergütung für die Tätigkeit der von ihr ernannten Mitglieder des Ständigen Vergleichsrats sowie die Hälfte der Vergütung für die Tätigkeit des Vorsitzenden.

Jede Partei trägt die von ihr veranlassten Kosten des Verfahrens sowie die Hälfte der Kosten, die von dem Ständigen Vergleichsrat als gemeinsame bezeichnet werden.

ART. 19. Der im Schiedsgerichtsverfahren gefällte Spruch ist von den Parteien nach Treu und Glauben zu erfüllen.

Die vertragschliessenden Teile verpflichten sich, während der Dauer des Schiedsgerichts- oder Vergleichsverfahrens nach Möglichkeit jede Massnahme zu vermeiden, die auf die Erfüllung des Schiedsspruchs oder die Annahme der Vorschläge des Ständigen Vergleichsrats nachteilig zurückwirken könnte.

nature of a final judgment binding upon the Parties. When submitting its report the Permanent Board of Conciliation may call upon the Parties to state, within a time-limit to be fixed in the report, whether, and within what limits, they recognise the correctness of the findings of the report and accept the proposals which it contains.

The Parties shall jointly decide whether the report shall be published immediately. If they fail to reach an agreement on this point, the Permanent Board of Conciliation may cause the report to be published immediately should there be special reasons for so doing.

ART. 18. Each Party shall bear the cost of the emoluments due to the members of the Permanent Board of Conciliation appointed by itself and shall bear half the cost of the Chairman's emoluments.

Each Party shall defray the expenses which it has itself incurred in connection with the proceedings and half of the expenses which the Permanent Board of Conciliation declares to be common to both Parties.

ART. 19. The award made as a result of the procedure of arbitration shall be carried out in good faith by the Parties concerned.

The Contracting Parties undertake during the course of the arbitration or conciliation proceedings to refrain as far as possible from any action liable to have a prejudicial effect on the execution of the arbitral award or on the acceptance of the proposals made by the Permanent Board of Conciliation.

Das Schiedsgericht kann auf Verlangen einer Partei vorsorgliche Massnahmen anordnen, soweit diese von den Parteien auf dem Verwaltungswege durchgeführt werden können; ebenso kann der Ständige Vergleichsrat zum gleichen Zwecke Vorschläge machen.

ART. 20. Unter Vorbehalt entgegenstehender Bestimmungen des gegenwärtigen Vertrags oder der Schiedsordnung ist für das Schiedsgerichts- und Vergleichsverfahren das Haager Abkommen zur friedlichen Erledigung internationaler Streitfälle vom 18. Oktober 1907 massgebend.

Soweit der gegenwärtige Vertrag auf die Bestimmungen des Haager Abkommens verweist, finden sie im Verhältnis zwischen den vertragsschliessenden Teilen selbst dann Anwendung, wenn diese oder einer von ihnen von dem Abkommen zurückgetreten sein sollten.

Sofern weder der gegenwärtige Vertrag, noch die Schiedsordnung, noch die sonst zwischen den vertragsschliessenden Teilen bestehenden Übereinkünfte die Fristen und andere Einzelheiten des Schiedsgerichts- oder Vergleichsverfahrens festlegen, ist das Schiedsgericht oder der Ständige Vergleichsrat selbst befugt, die erforderlichen Bestimmungen zu treffen.

ART. 21. Der gegenwärtige Vertrag soll so bald als möglich ratifiziert werden. Die Ratifikationsurkunden sollen in Berlin ausgetauscht werden.

Der Vertrag tritt einen Monat nach dem Austausch der Ratifikationsurkunden in Kraft.

Der Vertrag gilt für die Dauer von zehn Jahren. Wird er nicht sechs Monate vor Ablauf dieses Zeitraums gekündigt, so bleibt er für weitere fünf Jahre in Kraft.

The arbitration Tribunal may, at the request of either of the Parties, prescribe precautionary measures, provided they can be carried out by the Parties by administrative means. The Permanent Board of Conciliation may also make proposals for the same purpose.

ART. 20. Subject to any provisions to the contrary laid down in the present Treaty or in the special agreement, the procedure of arbitration and conciliation shall be regulated by The Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes.

In so far as the present Treaty refers to the stipulations of The Hague Convention, the latter shall continue to be applicable to the relations between the Contracting Parties, even if one or both of them should have denounced The Hague Convention.

In so far as the present Treaty or the special agreement or any other Conventions in force between the Parties do not lay down the time-limits or other details connected with the procedure of arbitration or conciliation, the Arbitration tribunal or the Permanent Board of Conciliation shall itself be competent to decree the necessary provisions.

ART. 21. The present Treaty shall be ratified as soon as possible. The instruments of ratification shall be exchanged at Berlin.

The Treaty shall come into force one month after the exchange of the instruments of ratification.

The Treaty shall be valid for a period of ten years. Unless denounced six months before this period expires, it shall remain in force for a further five years, and shall be similarly renewed, so long

Das gleiche gilt, wenn der Vertrag nicht mit der bezeichneten Frist gekündigt wird für die spätere Zeit.

Ein Schiedsgerichtsverfahren oder ein Vergleichsverfahren, das bei Ablauf des gegenwärtigen Vertrags schwebt, nimmt seinen Lauf nach den Bestimmungen dieses Vertrags oder eines anderen Abkommens, das von den vertragsschliessenden Teilen an dessen Stelle vereinbart wird.

Zu Urkund dessen haben die Bevollmächtigten den gegenwärtigen Vertrag unterzeichnet.

Ausgefertigt in doppelter Urschrift in deutscher und dänischer Sprache

in Berlin am 2. Juni 1926.

Stresemann  
Herluf Zahle

as it has not been denounced within the prescribed period.

If a dispute which has been referred to arbitration or conciliation has not been settled when the present Treaty expires, the case shall be proceeded with according to the stipulations of the present Treaty, or of any other agreement which the Contracting Parties may decide to substitute therefor.

In faith whereof the Plenipotentiaries have signed the present Treaty.

Done in duplicate in German and Danish at Berlin, June 2, 1926.

Stresemann  
Herluf Zahle<sup>1</sup>

#### FINAL PROTOCOL

##### *To the German-Danish Treaty of Arbitration and Conciliation*

(1) Die vertragsschliessenden Teile gehen von der Ansicht aus, dass die einzelnen Bestimmungen des Vertrags im Zweifel zugunsten der Anwendung des Grundsatzes der schiedsgerichtlichen Erledigung von Streitigkeiten auszulegen sind.

(2) Die vertragsschliessenden Teile erklären, dass der Vertrag auch dann Anwendung findet, wenn eine Streitigkeit in Ereignissen ihren Ursprung hat, die zeitlich vor seinem Abschluss liegen. Ausgenommen hiervon sind jedoch Streitigkeiten über Schadenersatzansprüche, die aus während des Weltkriegs vorgenommenen Kriegshandlungen hergeleitet werden.

(3) Die Tatsache, dass an einer Streitigkeit dritte Staaten beteiligt

(1) The Contracting Parties are agreed that in doubtful cases the various stipulations of the present Treaty shall be interpreted in favour of the application of the principle of the settlement of disputes by arbitration.

(2) The Contracting Parties declare that the Treaty shall also apply to disputes arising out of events which occurred prior to its conclusion. It shall not, however, apply to disputes with regard to claims for compensation arising out of military measures taken during the world war.

(3) The Treaty shall not cease to be applicable if third States are

<sup>1</sup> We have corrected the order of signatures here and in the translation of the Final Protocol.

sind, schliesst die Anwendung des Vertrags nicht aus. Die vertragsschliessenden Teile werden gegebenenfalls dahin wirken, die dritten Staaten zum Anschluss an das Schiedsgerichts- oder Vergleichsverfahren zu veranlassen. Für diesen Fall bleibt es den beiderseitigen Regierungen vorbehalten, im gemeinsamen Einverständnis eine besondere Zusammensetzung des Schiedsgerichts oder des Ständigen Vergleichsrats vorzusehen. Kann eine Verständigung mit den dritten Staaten über deren Anschluss nicht binnen angemessener Frist herbeigeführt werden, so nimmt das Verfahren zwischen den vertragsschliessenden Teilen mit Wirkung nur für diese den im Verträge vorgesehenen Verlauf.

(4) Für den Fall, dass Deutschland dem Ständigen Internationalen Gerichtshof im Haag beitrifft oder Mitglied des Völkerbundes wird, sollen Rechtsstreitigkeiten, bei denen die Parteien sich darüber, ob diese Rechtsstreitigkeiten dem Ständigen Internationalen Gerichtshof oder einem Schiedsgericht zu unterbreiten sind, nicht haben einigen können auf Antrag einer Partei einen Monat nach Ankündigung an die andere Partei unmittelbar vor den Ständigen Internationalen Gerichtshof gebracht werden können. Dasselbe gilt falls ein allgemeiner Schiedsvertrag zwischen Deutschland und einer dritten Macht in Kraft treten sollte, der eine entsprechende Bestimmung enthält.

Berlin, den 2. Juni 1926

Stresemann  
Herluf Zahle

concerned in a dispute. The Contracting Parties shall endeavour, if necessary, to induce the third States to agree to accept the procedure of arbitration or conciliation. In this case, the two Governments may, if they so desire, arrange by common consent that the Tribunal or the Permanent Board of Conciliation shall be constituted in a special manner. If no agreement is reached with the third States within a reasonable period, the procedure between the Contracting Parties shall take the course prescribed in the Treaty, but shall take effect only as far as they themselves are concerned.

(4) In the event of Germany acceding to the Permanent Court of International Justice at The Hague or becoming a Member of the League of Nations, legal disputes in regard to which the two Parties have been unable to agree as to whether the dispute should be brought before the Permanent Court of International Justice at The Hague or be submitted to arbitration may at the request of either Party be referred direct to the Permanent Court of International Justice after one month's notice has been given to the other Party. The same stipulation shall apply if a general Treaty of arbitration between Germany and any third Power comes into force containing a similar provision.

Berlin, June 2, 1926

Stresemann  
Herluf Zahle



## EXCHANGE OF NOTES

*Between the Danish and German Governments on the Occasion of the Signature of the Treaty of Arbitration and Conciliation, Dated June 2, 1926, between Denmark and Germany*

Kongelig Dansk Gesandtskab.  
Berlin, den 2. Juni 1926.

Royal Danish Legation.  
Berlin, June 2, 1926.

Hr. Rigsminister,

Under Henviisning til den Dags Dato stedfundne Undertegnelse af den dansk-tyske Voldgifts- og Forligstraktat har jeg den Ære efter Ordre fra min Regering at meddele Dem følgende:

Saafermt Tyskland bliver Medlem af Folkenes Forbund, skal Traktatens Bestemmelser om Forligsbehandling betragtes som supplerede med følgende yderligere Bestemmelse:

"Ildersom Parterne ikke er kommet til Enighed inden Udløbet af 1 Maaned efter Afslutningen af det staaende Forligsnavns Arbejder, forelægges Spørgsmaalet efter Anmodning fra en af Parterne for Folkenes Forbunds Raad, der træffer Afgørelse i Overensstemmelse med Art. 15 i Forbundspagten."

Der bestaar endvidere Enighed om, at Tvistigheder mellem Tyskland og en tredje Stat, i hvilke Danmark kunde blive delagtig i sin Egenskab af Medlem af Folkenes Forbund, ikke skal kunne anses som Tvistigheder mellem de kontraherende Parter i Traktatens Betydning. Det samme gælder, saasnart Tyskland er blevet Medlem af Folkenes Forbund, for Tvistigheder mellem Danmark og en tredje Stat, i hvilke Tyskland kunde blive delagtig i sin Egenskab af Medlem af Folkenes Forbund.

Modtag. Hr. Rigsminister, Forsikringen om min mest udmærkede Højagtelse.

Herluf Zahle

Hr. Dr. Gustav Stresemann,  
Rigsudenrigsminister, Berlin.

Your Excellency,

With reference to the signature to-day of the Danish-German Treaty of Arbitration and Conciliation, I am instructed by my Government to inform you as follows:

In the event of Germany becoming a Member of the League of Nations, the provisions of the Treaty regarding the procedure of conciliation shall be supplemented by the following provision:

"Should the Parties not have reached an agreement within one month after the Permanent Board of Conciliation has concluded its proceedings, the dispute may be referred by either Party to the Council of the League of Nations, which shall deal with the case as provided in Article XV of the Covenant of the League of Nations."

It is further understood that disputes between Germany and a third State to which Denmark, as a Member of the League of Nations, may be a Party shall not be regarded as disputes between the Contracting Parties within the meaning of the present Treaty. The same stipulation shall apply, as soon as Germany shall have become a Member of the League of Nations, to disputes between Denmark and a third State to which Germany, as a Member of the League of Nations, may be a Party.

I have the honour to be, etc.

Herluf Zahle

Dr. Gustav Stresemann,  
Reich Minister for Foreign Affairs, Berlin.

Auswärtiges Amt.

Berlin, den 2. Juni 1926.

Herr Gesandter!

In Erwiderung Ihres heutigen Schreibens beehre ich mich, Ihnen mit Beziehung auf die heute erfolgte Unterzeichnung des deutsch-dänischen Schiedsgerichts- und Vergleichsvertrags namens der Deutschen Regierung hiermit folgendes zu bestätigen:

Falls Deutschland Mitglied des Völkerbunds wird, sollen die Bestimmungen des Vertrags über das Vergleichsverfahren als durch folgende weitere Bestimmung ergänzt gelten:

„Wenn sich die Parteien nicht innerhalb eines Monats nach Abschluss der Arbeiten des Ständigen Vergleichsrats verständigt haben, wird die Frage durch Antrag einer der Parteien vor den Völkerbundsrat gebracht, der gemäss Artikel 15 der Völkerbundssatzung zu befinden hat.“

Es besteht ferner Einverständnis darüber, dass Streitigkeiten zwischen Deutschland und einem dritten Staate, an denen Dänemark in seiner Eigenschaft als Mitglied des Völkerbundes beteiligt werden könnte, nicht als Streitigkeiten zwischen den vertragschliessenden Teilen im Sinne des Vertrages angesehen werden können. Das gleiche gilt, sobald Deutschland Mitglied des Völkerbundes geworden ist, für Streitigkeiten zwischen Dänemark und einem dritten Staate, an denen Deutschland in seiner Eigenschaft als Mitglied des Völkerbundes beteiligt werden könnte.

Genehmigen Sie, Herr Gesandter, die Versicherung meiner ausgezeichnetsten Hochachtung.

Stresemann

An Seine Exzellenz den Königlich  
Dänischen Gesandten  
Herrn Zahle.

Ministry of Foreign Affairs.

Berlin, June 2, 1926.

Your Excellency,

In reply to your letter of to-day's date, I have the honour, on behalf of the German Government, to confirm the following declaration with reference to the signing to-day of the German-Danish Treaty of Arbitration and Conciliation;

In the event of Germany becoming a Member of the League of Nations, the provisions of the Treaty regarding the procedure of conciliation shall be supplemented by the following provision:

“Should the Parties not have reached an agreement within one month after the Permanent Board of Conciliation has concluded its proceedings, the dispute may be referred by either Party to the Council of the League of Nations, which shall deal with the case as provided in Article XV of the Covenant of the League of Nations.”

It is further understood that disputes between Germany and a third State, to which Denmark, as a Member of the League of Nations, may be a Party, shall not be regarded as disputes between the Contracting Parties within the meaning of the present Treaty. The same stipulation shall apply, as soon as Germany shall have become a Member of the League of Nations, to disputes between Denmark and a third State to which Germany, as a Member of the League of Nations, may be a Party.

I have the honour to be, etc.

G. Stresemann

His Excellency M. Zahle,  
Minister of His Majesty  
the King of Denmark.

## PERMANENT COMMISSION OF CONCILIATION

(Appointed September 18, 1927)

*President appointed by both Parties*

F. A. C. COUNT VAN LYNDEN VAN SANDENBURG, Grand Chamberlain to her Majesty the Queen of the Netherlands. (*Dutch.*)

*Members appointed by Denmark*

JULIUS MÖLLER, Judge of the Supreme Court of Denmark. (*Danish.*)  
ÖSTEN UNDÉN, Professor at the University of Upsala, former Minister for Foreign Affairs of Sweden. (*Swedish.*)

*Members appointed by Germany*

MAX FLEISCHMANN, Professor at the University of Halle. (*German.*)  
BARON EDUARD VON WALDKIRCH, Professor at the University of Berne. (*Swiss.*)

## No. 69

FRANCE-RUMANIA: TREATY OF CONCILIATION,  
ARBITRATION, AND COMPULSORY  
ADJUDICATION

Signed at Paris June 10, 1926; ratifications exchanged November 8, 1926.

Original text from Rumania, *Monitorul Oficial*, 1927, No. 14;<sup>1</sup> English translation from League of Nations, *Treaty Series*, LVIII, 235-243.

*(Translation)*

Les soussignés dûment autorisés,  
Chargés par leurs Gouvernements respectifs de fixer les modalités suivant lesquelles il sera, ainsi qu'il est prévu dans l'article 2<sup>2</sup> du Traité conclu en date de ce jour, entre la Roumanie et la France, procédé au règlement pacifique de toutes les questions qui ne pour-

The undersigned, duly authorised,

Charged by their respective Governments to determine the methods by which, as provided in Article 2 of the Treaty concluded this day between France and Roumania, a peaceful solution shall be attained of all questions which cannot be

<sup>1</sup> See also League of Nations, *Treaty Series*, LVIII, 234.

<sup>2</sup> Art. 2 of the Treaty referred to reads: "Prenant en considération les engagements respectivement pris par eux dans l'article premier du présent Traité, la Roumanie et la France s'engagent à régler par voie pacifique et de la manière suivante toutes questions de quelque nature qu'elles soient, qui viendraient à les diviser et qui n'auraient pu être résolues par les procédés diplomatiques ordinaires; toutes questions au sujet desquelles les Parties se contesteraient réciproquement un droit, seront soumises à des juges à la décision desquels les Parties s'engagent à se conformer; toute autre question sera soumise à une Commission de conciliation et si l'arrangement proposé par cette Commission n'est pas agréé par les deux Parties, la question sera portée devant le Conseil de la Société des Nations, statuant conformément à l'art. 15 du Pacte de la Société.

"Les modalités de cette méthode de règlement pacifique sont l'objet d'une Convention particulière signée en date de ce jour."

raient être réglées à l'amiable entre les deux pays,

Ont convenu des dispositions suivantes:

#### PARTIE I

ARTICLE 1<sup>er</sup>. Toutes contestations entre les Hautes Parties Contractantes de quelque nature qu'elles soient, au sujet desquelles les Parties se contesteraient réciproquement un droit et qui n'auraient pu être réglées à l'amiable par les procédés diplomatiques ordinaires seront soumises pour jugement soit à un tribunal arbitral, soit à la Cour Permanente de Justice Internationale, ainsi qu'il est prévu ci-après. Il est entendu que les contestations ci-dessus visées comprennent celles que mentionne l'article 13 du Pacte de la Société des Nations.

Cette disposition ne s'applique pas aux contestations ayant leur origine dans des faits antérieurs à la présente Convention et qui appartiennent au passé.

Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres Conventions en vigueur entre les Hautes Parties Contractantes seront réglées conformément aux dispositions de ces Conventions.

Le Gouvernement roumain et le Gouvernement français s'engagent respectivement à ne soulever l'un vis-à-vis de l'autre aucune question tendant à une modification de leur intégrité territoriale ou de leurs frontières telles qu'elles sont actuellement fixées par les Traités dont ils sont l'un et l'autre signataires.

ART. 2. Avant toute procédure arbitrale et avant toute procédure devant la Cour Permanente de Justice Internationale, la contestation pourra être, d'un commun accord entre les Parties, soumise à

settled amicably between the two countries,

Have agreed as follows:

#### PART I

ARTICLE 1. All disputes of every kind between France and Roumania with regard to which the Parties are in conflict as to their respective rights, and which it may not be possible to settle amicably by the normal methods of diplomacy, shall be submitted for decision either to an arbitral tribunal or to the Permanent Court of International Justice as laid down hereafter. It is agreed that the disputes referred to above include those mentioned in Article 13 of the Covenant of the League of Nations.

This provision does not apply to disputes arising out of events prior to the present Treaty and belonging to the past.

Disputes, for the settlement of which a special procedure is laid down in other conventions in force between the High Contracting Parties shall be settled in conformity with the provisions of those Conventions.

The French Government and the Roumanian Government undertake to refrain from putting forward any suggestion which would affect their territorial integrity or modify their frontiers as now fixed by the Treaties to which they are both signatories.

ART. 2. Before any resort is made to arbitral procedure or to procedure before the Permanent Court of International Justice, the dispute may, by agreement between the Parties, be submitted,

fin de conciliation à une Commission internationale permanente, dite *Commission permanente de Conciliation*, constituée conformément à la présente Convention.

ART. 3. S'il s'agit d'une contestation dont l'objet, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux de celle-ci, le différend ne sera soumis à la procédure prévue par la présente Convention qu'après jugement passé en force de chose jugée et rendu dans des délais raisonnables, par l'autorité judiciaire nationale compétente.

ART. 4. La Commission Permanente de Conciliation prévue à l'article 2 sera composée de cinq membres, qui seront désignés comme il suit, savoir: les Hautes Parties Contractantes nommeront chacune un Commissaire choisis parmi leurs nationaux respectifs et désigneront, d'un commun accord, les trois autres commissaires parmi les ressortissants de tierces Puissances; ces trois commissaires devront être de nationalité différente et, parmi eux, les Hautes Parties Contractantes désigneront le Président de la Commission.

Les commissaires sont nommés pour trois ans; leur mandat est renouvelable. Ils resteront en fonctions jusqu'à leur remplacement et, dans tous les cas, jusqu'à l'achèvement de leurs travaux en cours au moment de l'expiration de leur mandat.

Il sera pourvu, dans le plus bref délai, aux vacances qui viendraient à se produire, par suite de décès, de démission ou de quelque autre empêchement, en suivant le mode fixé pour les nominations.

ART. 5. La Commission Permanente de Conciliation sera consti-

with a view to amicable settlement, to a permanent international commission, styled the *Permanent Conciliation Commission*, constituted in accordance with the present Treaty.

ART. 3. In the case of a dispute the occasion of which, according to the municipal law of one of the Parties, falls within the competence of the national courts of such Party, the matter in dispute shall not be submitted to the procedure laid down in the present Treaty until a judgment with final effect has been pronounced, within a reasonable time, by the competent national judicial authority.

ART. 4. The Permanent Conciliation Commission mentioned in Article 2 shall be composed of five members, who shall be appointed as follows, that is to say: the High Contracting Parties shall each nominate a commissioner chosen from among their respective nationals, and shall appoint, by common agreement, the three other commissioners from among the nationals of third Powers; those three commissioners must be of different nationalities, and the High Contracting Parties shall appoint the president of the Commission from among them.

The commissioners are appointed for three years, and their mandate is renewable. Their appointment shall continue until their replacement, and in any case until the termination of the work in hand at the moment of the expiry of their mandate.

Vacancies which may occur as a result of death, resignation or any other cause shall be filled within the shortest possible time in the manner fixed for the nominations.

ART. 5. The Permanent Conciliation Commission shall be consti-

tuée dans les trois mois qui suivront l'entrée en vigueur de la présente convention.

Si la nomination des commissaires à désigner en commun n'intervenait pas dans le délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, le Président de la Confédération Suisse sera, à défaut d'autre entente, prié de procéder aux désignations nécessaires.

ART. 6. La Commission Permanente de Conciliation sera saisie par voie de requête adressée au Président par les deux Parties agissant d'un commun accord ou, à défaut, par l'une ou l'autre des Parties.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à la Partie adverse.

ART. 7. Dans un délai de 15 jours à partir de la date où l'une des Hautes Parties Contractantes aurait porté une contestation devant la Commission Permanente de Conciliation chacune des Parties pourra, pour l'examen de cette contestation, remplacer son commissaire par une personne possédant une compétence spéciale dans la matière.

La Partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie; celle-ci aura, dans ce cas, la faculté d'agir de même dans un délai de 15 jours à partir de la date où la notification lui sera parvenue.

tuted within three months from the entry into force of the present Convention.

If the nomination of the commissioners to be appointed by common agreement should not have taken place within the said period, or, in the case of the filling of vacancy, within three months from the time when the seat falls vacant, the President of the Swiss Confederation shall, in the absence of other agreement, be requested to make the necessary appointments.

ART. 6. The Permanent Conciliation Commission shall be informed by means of a request addressed to the president by the two Parties acting in agreement, or, in the absence of such agreement, by one or other of the Parties.

The request, after having given a summary account of the subject of the dispute, shall contain the invitation to the Commission to take all necessary measures with a view to arriving at an amicable settlement.

If the request emanates from only one of the Parties, notification thereof shall be made without delay to the other Party.

ART. 7. Within fifteen days from the date when one of the High Contracting Parties shall have brought a dispute before the Permanent Conciliation Commission, either Party may, for the examination of the particular dispute, replace its commissioner by a person possessing special competence in the matter.

The Party making use of this right shall immediately inform the other Party; the latter shall in that case be entitled to take action within fifteen days from the date when the notification reaches it.

**ART. 8.** La Commission Permanente de Conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

A la fin de ses travaux, la Commission dressera un procès-verbal constatant, suivant le cas, soit que les Parties se sont arrangées, et s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la Commission devront, à moins que les Parties en conviennent différemment, être terminés dans le délai de six mois à compter du jour où la Commission aura été saisie du litige.

**ART. 9.** A moins de stipulation spéciale, la Commission Permanente de Conciliation réglera elle-même sa procédure qui, dans tous les cas, devra être contradictoire. En matière d'enquête, la Commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du Titre III (Commission internationale d'enquête) de la Convention de la Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

**ART. 10.** La Commission Permanente de Conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son Président.

**ART. 11.** Les travaux de la Commission Permanente de Concili-

**ART. 8.** The task of the Permanent Conciliation Commission shall be to elucidate questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of settlement which seem suitable to it, and lay down a period within which they are to make their decision.

At the close of its labours, the Commission shall draw up a report stating, as the case may be, either that the Parties have come to an agreement and, if need arises, the terms of the agreement, or that it has been impossible to effect a settlement.

The labours of the Commission must, unless the Parties otherwise agree, be terminated within six months from the day on which the Commission shall have been notified of the dispute.

**ART. 9.** Failing any special provision to the contrary, the Permanent Conciliation Commission shall lay down its own procedure, which in any case must provide for both Parties being heard. In regard to enquiries, the Commission, unless it decides unanimously to the contrary, shall act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of The Hague Convention of the October 18, 1907, for the Pacific Settlement of International Disputes.

**ART. 10.** The Permanent Conciliation Commission shall meet, in the absence of agreement by the Parties to the contrary, at a place selected by its president.

**ART. 11.** The labours of the Permanent Conciliation Commission

ation ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties.

ART. 12. Les Parties seront représentées auprès de la Commission Permanente de Conciliation par des agents ayant mission de servir d'intermédiaires entre elles et la Commission; elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraît utile.

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement.

ART. 13. Sauf disposition contraire de la présente Convention, les décisions de la Commission Permanente de Conciliation seront prises à la majorité des voix.

ART. 14. Les Hautes Parties Contractantes s'engagent à faciliter les travaux de la Commission Permanente de Conciliation et, en particulier, à lui fournir dans la plus large mesure possible tous documents et informations utiles, ainsi qu'à user des moyens dont elles disposent pour leur permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

ART. 15. Pendant la durée des travaux de la Commission Permanente de Conciliation, chacun des Commissaires recevra une indemnité dont le montant sera arrêté, d'un commun accord, entre les Hautes Parties Contractantes qui

are not public, except when a decision to that effect has been taken by the Commission with the consent of the Parties.

ART. 12. The Parties shall be represented before the Permanent Conciliation Commission by agents, whose duty it shall be to act as intermediary between them and the Commission; they may, moreover, be assisted by counsel and experts appointed by them for that purpose, and request that all persons whose evidence appears to them useful should be heard.

The Commission on its side shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties, as well as from all persons it may think useful to summon with the consent of their Government.

ART. 13. Unless otherwise provided in the present Convention, the decisions of the Permanent Conciliation Commission shall be taken by a majority.

ART. 14. The High Contracting Parties undertake to facilitate the labours of the Permanent Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to allow it to proceed in their territory and in accordance with their law to the summoning and hearing of witnesses or experts, and to visit the localities in question.

ART. 15. During the labours of the Permanent Conciliation Commission each commissioner shall receive salary, the amount of which shall be fixed by agreement between the High Contracting Parties, each of which shall contribute an equal



en supporteront chacune une part égale. Les frais auxquels donnerait lieu le fonctionnement de la Commission, seront également partagés par moitié.

ART. 16. A défaut de conciliation devant la Commission Permanente de Conciliation, la contestation sera soumise d'un commun accord par voie de compromis soit à la Cour Permanente de Justice Internationale dans les conditions et suivant la procédure prévues par son statut, soit à un Tribunal arbitral dans les conditions et suivant la procédure prévues par la Convention de la Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

A défaut d'accord entre les Parties sur le compromis et après un préavis d'un mois; l'une ou l'autre d'entre elles aura la faculté de porter directement par voie de requête la contestation devant la Cour Permanente de Justice Internationale.

## PART II

ART. 17. Toutes questions sur lesquelles les Gouvernements des deux Parties Contractantes seraient divisés sans pouvoir les résoudre à l'amiable par les procédés diplomatiques ordinaires, dont la solution ne pourrait être recherchée par un jugement ainsi qu'il est prévu par l'article 1<sup>er</sup> de la présente Convention et pour lesquelles une procédure de règlement ne serait pas déjà prévue par un traité en vigueur entre les Parties, seront soumises à la *Commission Permanente de Conciliation* qui sera chargée de proposer aux Parties une solution acceptable, et, dans tous les cas, de présenter un rapport.

La procédure prévue par les articles 6 à 15 de la présente Convention sera appliquée.

share. The expenses involved by the proceedings of the Commission shall be equally shared.

ART. 16. In the event of no amicable agreement being reached before the Permanent Conciliation Commission, the dispute shall be submitted by means of a special agreement either to the Permanent Court of International Justice, under the conditions and according to the procedure laid down by its Statute, or to an arbitral tribunal under the conditions and according to the procedure laid down by The Hague Convention of the October 18, 1907, for the Pacific Settlement of International Disputes.

If the Parties cannot agree on the terms of the special agreement after a month's notice, one or other of them may bring the dispute before the Permanent Court of International Justice by means of an application.

## PART II

ART. 17. All questions on which the Governments of the two Contracting Parties shall differ without being able to reach an amicable solution by means of the normal methods of diplomacy, the settlement of which cannot be attained by means of a judicial decision as provided in Article 1 of the present Convention, and for the settlement of which no procedure has been laid down by any other treaty in force between the Parties, shall be submitted to the *Permanent Conciliation Commission*, whose duty it shall be to propose to the Parties an acceptable solution and in any case to present a report.

The procedure laid down in Articles 6-15 of the present Treaty shall be applicable.

**ART. 18.** Si dans le mois qui suivra la clôture des travaux de la Commission Permanente de Conciliation, les deux Parties ne se sont pas entendues, la question sera, à la requête de l'une ou de l'autre Partie, portée devant le Conseil de la Société des Nations

**ART. 18.** If the two Parties have not reached an agreement within a month from the termination of the labours of the Permanent Conciliation Commission, the question shall, at the request of either Party, be brought before the Council of the League of Nations

#### DISPOSITION GÉNÉRALE

**ART 19** Dans tous les cas et notamment si la question au sujet de laquelle les Parties sont divisées résulte d'actes déjà effectués ou sur le point de l'être, la Commission de Conciliation ou, si celle-ci ne s'en trouvait pas saisie, le Tribunal arbitral ou la Cour Permanente de Justice Internationale statuant conformément à l'article 41 de son statut indiqueront dans le plus bref délai possible quelles mesures provisoires doivent être prises. Il appartiendra au Conseil de la Société des Nations s'il est saisi de la question, de pourvoir de même à des mesures provisoires appropriées. Chacune des Hautes Parties Contractantes s'engage à s'y conformer, à s'abstenir de toute mesure susceptible d'avoir une répercussion préjudiciable à l'exécution de la décision ou aux arrangements proposés par la Commission de Conciliation, et en général à ne procéder à aucun acte de quelque nature qu'il soit susceptible d'aggraver ou d'étendre le différend.

**ART 20** La présente Convention reste applicable entre les Hautes Parties Contractantes en core que d'autres Puissances aient également un intérêt dans le différend.

**ART 21** La présente Convention sera ratifiée. Les ratifications en seront déposées à Paris en même temps que les ratifications du

#### GENERAL PROVISIONS

**ART 19** In any case, and particularly if the question on which the Parties differ arises out of acts already committed or on the point of commission, the Conciliation Commission or if the latter has not been notified thereof, the arbitral tribunal or the Permanent Court of International Justice, acting in accordance with Article 41 of its Statute, shall lay down within the shortest possible time the provisional measures to be adopted. It shall similarly be the duty of the Council of the League of Nations if the question is brought before it to ensure that suitable provisional measures are taken. The High Contracting Parties undertake respectively to accept such measures, to abstain from all measures likely to have a repercussion prejudicial to the execution of the decision or to the arrangements proposed by the Conciliation Commission and, in general to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

**ART 20** The present Convention continues applicable as between the High Contracting Parties even when other Powers are also interested in the dispute.

**ART 21** The present Convention shall be ratified. Ratifications shall be deposited at Paris at the same time as the ratifications of

Traité conclu en date de ce jour entre la Roumanie et la France.

Elle entrera et demeurera en vigueur dans les mêmes conditions que ledit Traité.

Fait à Paris, en double exemplaire, le dix juin 1926.

Const. Diamandy  
Aristide Briand

the Treaty concluded this day between France and Roumania.

It shall enter into and remain in force under the same conditions as the said Treaty.

Done at Paris, in duplicate, June 10, 1926.

Aristide Briand  
Const. Diamandy

#### PERMANENT COMMISSION OF CONCILIATION

##### *President appointed by both Parties*

PAUL LOGOZ. (*Swiss.*)

##### *Members appointed by both Parties*

PHILIPPE ROY, Commissioner General for Canada in France. (*Canadian.*)

W. J. M. VAN EYSINGA, Professor at the University of Leyden. (*Dutch.*)

##### *Member appointed by France* (vacant)

##### *Member appointed by Rumania*

DERUSSI. (*Rumanian.*)

### No. 70

#### DENMARK-FRANCE: TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Paris July 5, 1926; ratifications exchanged April 4, 1928.

Original text communicated by the Legation of Denmark at Washington, D. C.,<sup>1</sup>  
English translation from League of Nations, *Treaty Series*, LXXI, 457-465.

##### (Translation)

S. M. le Roi de Danemark et d'Islande et le Président de la République Française,

S'inspirant des heureuses relations d'amitié qui unissent leurs nations respectives,

Considérant la Convention d'arbitrage conclue à Copenhague le 9 août 1911 entre le Danemark et la France.

Désireux d'y substituer des dispositions permettant d'assurer

His Majesty the King of Denmark and Iceland and the President of the French Republic,

Inspired by the cordial and friendly relations uniting their respective countries,

Taking into consideration the Arbitration Convention concluded at Copenhagen on August 9, 1911, between Denmark and France,

Desiring to substitute therefor an arrangement ensuring hencefor-

<sup>1</sup> See also League of Nations, *Treaty Series*, LXXI, 456.

dorénavant, conformément aux principes consacrés par le Pacte de la Société des Nations, le règlement pacifique de tous les différends et conflits, de quelque nature qu'ils soient, qui viendraient à diviser les deux pays,

Ont résolu de conclure un Traité à cet effet et ont nommé pour leurs Plénipotentiaires respectifs, savoir:

S. M. le Roi de Danemark et d'Islande,

M. Herman Anker Bernhoft, Son Envoyé extraordinaire et Ministre plénipotentiaire à Paris;

Le Président de la République Française:

M. Aristide Briand, Député, Président du Conseil, Ministre des Affaires étrangères;

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des articles suivants:

ARTICLE 1<sup>er</sup>. Les Hautes Parties Contractantes s'engagent réciproquement à régler, dans tous les cas, par voie pacifique et d'après les méthodes prévues par le présent Traité, tous les litiges ou conflits de quelque nature qu'ils soient, qui viendraient à s'élever entre le Danemark et la France et qui n'auraient pu être résolus par les procédés diplomatiques ordinaires.

ART. 2. Toutes contestations entre les Hautes Parties Contractantes de quelque nature qu'elles soient, et qui n'auraient pu être réglées à l'amiable par les procédés diplomatiques ordinaires, seront soumises pour jugement, soit à un tribunal arbitral, soit à la Cour permanente de justice internationale, ainsi qu'il est prévu ci-après.

Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres con-

ward, in conformity with the principles laid down in the Covenant of the League of Nations, the pacific settlement of all differences and disputes of whatever nature which may arise between the two countries,

Have resolved to conclude a Treaty with that object and have appointed as their respective Plenipotentiaries:

His Majesty the King of Denmark and Iceland:

M. Herman Anker Bernhoft, His Envoy Extraordinary and Minister Plenipotentiary at Paris;

The President of the French Republic:

M. Aristide Briand, Deputy, Prime Minister and Minister for Foreign Affairs,

Who, having communicated their full powers, found in good and due form, have agreed upon the following Articles:

ARTICLE 1. The High Contracting Parties reciprocally undertake in every case to settle by pacific means, and in accordance with the procedure laid down in the present Treaty, all conflicts or disputes of whatever nature which may arise between Denmark and France and which it may not have been possible to settle by the normal methods of diplomacy.

ART. 2. All disputes of whatever kind between the High Contracting Parties which it may not have been possible to settle amicably by the normal methods of diplomacy shall be submitted for decision either to an arbitral tribunal or to the Permanent Court of International Justice, as laid down hereinafter.

Disputes for the settlement of which a special procedure is laid down in other conventions in force between the High Contracting Par-

ventions en vigueur entre les Hautes Parties Contractantes seront réglées conformément aux dispositions de ces conventions.

ART. 3. Avant toute procédure arbitrale ou avant toute procédure devant la Cour permanente de justice internationale, la contestation sera soumise à fin de conciliation à une Commission internationale permanente, dite *Commission permanente de conciliation*, constituée conformément au présent Traité.

ART. 4. S'il s'agit d'une contestation dont l'objet, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux de celles-ci, le différend ne sera soumis à la procédure prévue par le présent Traité qu'après jugement passé en force de chose jugée et rendu dans des délais raisonnables par l'autorité judiciaire nationale compétente.

ART. 5. La Commission permanente de conciliation prévue à l'article 3 sera composée de cinq membres, qui seront désignés comme il suit, savoir: les Hautes Parties Contractantes nommeront chacune un Commissaire choisi parmi leurs nationaux respectifs et désigneront, d'un commun accord, les trois autres Commissaires parmi les ressortissants de tierces Puissances; ces trois Commissaires devront être de nationalité différente et, parmi eux, les Hautes Parties Contractantes désigneront le Président de la Commission.

Les Commissaires sont nommés pour trois ans; leur mandat est renouvelable. Ils resteront en fonctions jusqu'à leur remplacement, et, dans tous les cas, jusqu'à l'achèvement de leurs travaux en

ties shall be settled in conformity with the provisions of those conventions.

ART. 3. Before any resort is made to arbitral procedure or to procedure before the Permanent Court of International Justice, the dispute shall be submitted, with a view to amicable settlement, to a permanent international commission, styled the *Permanent Conciliation Commission*, constituted in accordance with the present Treaty.

ART. 4. In the case of a dispute the occasion of which, according to the municipal law of one of the Parties, falls within the competence of the national courts of the Parties, the matter in dispute shall not be submitted to the procedure laid down in the present Treaty until a judgment with final effect has been pronounced within a reasonable time by the competent national judicial authority.

ART. 5. The Permanent Conciliation Commission mentioned in Article 3 shall be composed of five members, who shall be nominated as follows: the High Contracting Parties shall each appoint a commissioner, chosen from among their respective nationals, and shall jointly nominate the other three commissioners from among the nationals of third Powers; these three commissioners shall be of different nationalities, and the High Contracting Parties shall nominate the President of the Commission from among them.

The commissioners are appointed for three years, and their mandate is renewable. Their appointment shall continue until they are replaced, and in any case until the completion of any work in hand at

cours au moment de l'expiration de leur mandat.

Il sera pourvu, dans le plus bref délai, aux vacances qui viendraient à se produire, par suite de décès, de démission ou de quelque autre empêchement, en suivant le mode fixé pour les nominations.

ART. 6. La Commission permanente de conciliation sera constituée dans les trois mois qui suivront l'entrée en vigueur de la présente Convention.

Si la nomination des Commissaires à désigner en commun n'intervenait pas dans le délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, Sa Majesté la Reine des Pays-Bas sera, à défaut d'autre entente, priée de procéder aux désignations nécessaires.

ART. 7. La Commission permanente de conciliation sera saisie par voie de requête adressée au Président par les deux Parties agissant d'un commun accord ou, à défaut, par l'une ou l'autre des Parties.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à la Partie adverse.

ART. 8. Dans un délai de quinze jours à partir de la date où la Commission permanente de conciliation aura été saisie de la contestation chacune des Parties pourra, pour l'examen de cette contestation, remplacer son Commissaire par une personne possédant une compétence spéciale dans la matière.

the time of the expiry of their mandate.

Vacancies which occur as a result of death or resignation or for any other cause shall be filled within the shortest possible time in the manner prescribed for appointments.

ART. 6. The Permanent Conciliation Commission shall be constituted within three months from the entry into force of the present Convention.

If the appointment of the commissioners to be jointly nominated should not have taken place within that period or, in the case of the filling of a vacancy, within three months from the time when the vacancy occurs, Her Majesty the Queen of the Netherlands shall, in the absence of any other agreement, be requested to make the necessary nominations.

ART. 7. The Permanent Conciliation Commission shall be informed by means of a request addressed to the President by the two Parties acting in agreement or, in the absence of such agreement, by either of the Parties.

The request, after giving a summary account of the subject of the dispute, shall contain an invitation to the Commission to take all necessary measures with a view to arriving at an amicable settlement.

If the request is made by only one of the Parties, that Party shall notify it without delay to the other.

ART. 8. Within fifteen days from the date when the Permanent Conciliation Commission shall have been notified of the dispute, either Party may, for the examination of the particular dispute, substitute for its commissioner a person possessing special competence in the matter.

La Partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie, celle-ci aura, dans ce cas, la faculté d'agir de même dans un délai de quinze jours à partir de la date où la notification lui sera parvenue

ART 9 La Commission permanente de conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer

À la fin de ses travaux, la Commission dressera un procès verbal constatant, suivant le cas, soit que les Parties se sont arrangées, et s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées

Les travaux de la Commission devront à moins que les Parties en conviennent différemment, être terminés dans le délai de six mois à compter du jour où la Commission aura été saisie du litige

ART 10 À moins de stipulation spéciale contraire, la Commission permanente de conciliation réglera elle-même sa procédure qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la Commission si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du Titre III (Des Commissions internationales d'enquête) de la Convention de la Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux

The Party making use of this right shall immediately inform the other Party, the latter shall in that case be entitled to take similar action within fifteen days from the date when the notification reaches it

ART 9 The Permanent Conciliation Commission shall elucidate the questions in dispute with that object it shall collect all necessary information by enquiry or otherwise and it shall endeavour to bring the Parties to an agreement. After examining the case, it may inform the Parties of the terms of settlement which it considers suitable and lay down a period within which they are to make their decision

At the close of its proceedings the Commission shall draw up a report stating as the case may be either that the parties have come to an agreement and, if necessary, the terms of the agreement or that it has been impossible to effect a settlement

The proceedings of the Commission must unless the Parties agree otherwise be terminated within six months from the day on which the Commission is notified of the dispute

ART 10 Failing any special provision to the contrary the Permanent Conciliation Commission shall lay down its own procedure which in any case must enable both Parties to be heard. In regard to enquiries the Commission unless it unanimously decides to the contrary shall act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes

ART. 11. La Commission permanente de conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son Président.

ART. 12. Les travaux de la Commission permanente de conciliation ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties.

ART. 13. Les Parties seront représentées auprès de la Commission permanente de conciliation par des agents ayant mission de servir d'intermédiaire entre elles et la Commission; elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraît utile.

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement.

ART. 14. Sauf disposition contraire du présent Traité, les décisions de la Commission permanente de conciliation seront prises à la majorité des voix.

ART. 15. Les Hautes Parties Contractantes s'engagent à faciliter les travaux de la Commission permanente de conciliation et, en particulier, à lui fournir dans la plus large mesure possible tous documents et informations utiles, ainsi qu'à user des moyens dont elles disposent pour leur permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

ART. 11. In the absence of an agreement by the Parties to the contrary, the Permanent Conciliation Commission shall meet at a place selected by its President.

ART. 12. The proceedings of the Permanent Conciliation Commission shall not be public, unless a decision to that effect has been taken by the Commission with the consent of the Parties.

ART. 13. The Parties shall be represented before the Permanent Conciliation Commission by agents, whose duty it shall be to act as intermediaries between them and the Commission; they may further be assisted by counsel and experts appointed by them for that purpose, and may request that all persons whose evidence appears to them useful should be heard.

The Commission on its side shall be entitled to request oral explanations from the agents counsel and experts of the respective Parties, as well as from all persons whom it may think desirable to cite with the consent of their Governments.

ART. 14. Except where otherwise provided in the present Treaty, the decisions of the Permanent Conciliation Commission shall be taken by a majority.

ART. 15. The High Contracting Parties undertake to facilitate the work of the Permanent Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information, and also to enable them, by the means at their disposal, to proceed in their territory and in accordance with their law to summon and hear witnesses or experts and to visit the localities in question.



ART. 16. Pendant la durée des travaux de la Commission permanente de conciliation, chacun des Commissaires recevra une indemnité dont le montant sera arrêté, d'un commun accord, entre les Hautes Parties Contractantes qui en supporteront chacune une part égale. Les frais auxquels donnerait lieu le fonctionnement de la Commission seront également partagés par moitié.

ART. 17. A défaut de conciliation devant la Commission permanente de conciliation, la contestation sera soumise d'un commun accord par voie de compromis, soit à la Cour permanente de justice internationale, dans les conditions et suivant la procédure prévues par son statut, soit à un tribunal arbitral, dans les conditions et suivant la procédure prévues par la Convention de la Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

A défaut d'accord entre les Parties sur le compromis et après un préavis d'un mois, l'une ou l'autre d'entre elles aura la faculté de porter directement par voie de requête la contestation devant la Cour permanente de justice internationale.

#### DISPOSITION GÉNÉRALE

ART. 18. Dans tous les cas et notamment si la question au sujet de laquelle les Parties sont divisées résulte d'actes déjà effectués ou sur le point de l'être, la Commission de conciliation ou, si celle-ci ne s'en trouvait plus saisie, le Tribunal arbitral ou la Cour permanente de justice internationale statuant conformément à l'article 41 de son statut, indiqueront, s'il y a lieu et dans le plus bref délai possible,

ART. 16. During the proceedings of the Permanent Conciliation Commission each Commissioner shall receive a fee, the amount of which shall be fixed by agreement between the High Contracting Parties, each of which shall contribute an equal share. Expenses incidental to the working of the Commission shall likewise be equally divided.

ART. 17. Should no amicable agreement be reached before the Permanent Conciliation Commission, the dispute shall be submitted by means of a special agreement either to the Permanent Court of International Justice, under the conditions and according to the procedure laid down by the Statute of that Court, or to an arbitral tribunal, under the conditions and according to the procedure laid down by the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

If the Parties cannot reach an understanding as to the terms of the special agreement, either of them may, after a month's notice, bring the dispute before the Permanent Court of International Justice direct by means of an application.

#### GENERAL PROVISIONS

ART. 18. In any case, and more particularly if the question on which the Parties differ arises out of acts already committed or on the point of commission, the Conciliation Commission or, if the latter is no longer cognisant thereof the arbitral tribunal, or the Permanent Court of International Justice, acting in accordance with Article 41 of its Statute, shall, if necessary, prescribe as soon as possible

quelles mesures provisoires doivent être prises. Chacune des Hautes Parties Contractantes s'engage à s'y conformer, à s'abstenir de toute mesure susceptible d'avoir une répercussion préjudiciable à l'exécution de la décision ou aux arrangements proposés par la Commission de conciliation, et en général à ne procéder à aucun acte, de quelque nature qu'il soit, susceptible d'aggraver ou d'étendre le différend.

ART. 19. Le présent Traité reste applicable entre les Hautes Parties Contractantes encore que d'autres Puissances aient également un intérêt dans le différend.

ART. 20. Le présent Traité sera communiqué pour enregistrement à la Société des Nations conformément à l'article 18 du Pacte

ART. 21. Le présent Traité sera ratifié. Les ratifications en seront échangées à Paris.

Il entrera en vigueur dès l'échange des ratifications et remplacera dans les relations entre le Danemark et la France la Convention d'arbitrage conclue à Copenhague le 9 août 1911. Il aura une durée de dix ans à compter de son entrée en vigueur. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il sera considéré comme renouvelé pour une période de cinq années et ainsi de suite.

Si, lors de l'expiration du présent Traité, une procédure quelconque en vertu de ce Traité se trouvait pendante devant la Commission permanente de conciliation, devant un tribunal d'arbitrage ou devant la Cour permanente de justice internationale, cette procédure serait poursuivie jusqu'à son achèvement.

the provisional measures to be adopted. Both High Contracting Parties undertake to accept such measures, to abstain from all measures likely to have a prejudicial effect upon the execution of the decision or upon the arrangements proposed by the Conciliation Commission and, in general, to abstain from any act whatever which may aggravate or extend the dispute.

ART. 19. The present Treaty shall remain applicable as between the High Contracting Parties even when other Powers are also interested in the dispute.

ART. 20. The present Treaty shall be registered with the League of Nations, in conformity with Article 18 of the Covenant.

ART. 21. The present Treaty shall be ratified. The instruments of ratification shall be exchanged at Paris.

It shall come into force as from the exchange of the instruments of ratification, and, in regard to relations between Denmark and France, shall replace the Arbitration Convention concluded at Copenhagen on August 9, 1911. It shall be valid for a period of ten years as from its coming into force. Unless denounced six months prior to the expiry of this period, it shall be deemed to be renewed for a period of five years, and shall be similarly renewable thereafter.

If at the date of expiry of the present Treaty, proceedings of any kind undertaken in virtue thereof are pending before the Permanent Conciliation Commission, an arbitral tribunal or the Permanent Court of International Justice, such proceedings shall pursue their course until their completion.

En foi de quoi, les Plénipotentiaires susnommés ont signé le présent Traité.

Fait à Paris, en double exemplaire, le 5 juillet 1926.

H A Bernhoft  
Ari Briand

In faith whereof the aforementioned Plenipotentiaries have signed the present Treaty.

Done at Paris in duplicate,  
July 5, 1926

H A Bernhoft  
Ari Briand

#### PERMANENT COMMISSION OF CONCILIATION

No information available

### No. 71

#### ITALY-SPAIN: TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Madrid August 7, 1926, ratifications exchanged October 16, 1926

Original text communicated by the Spanish Embassy at Washington, D C, <sup>1</sup> English translation from League of Nations, *Treaty Series*, LXVII, 375-381

(Translation)

Su Majestad el Rey de España y Su Majestad el Rey de Italia animados del deseo de estrechar los lazos de amistad existentes entre los dos Países y de contribuir al mantenimiento de la Paz general han resuelto celebrar un Tratado de amistad, de conciliación y de arreglo judicial de las cuestiones que pudieran surgir entre los dos Países

Al efecto han designado como plenipotenciarios, a saber

Su Majestad el Rey de España  
Al Excelentísimo señor Don José de Yanguas Messia, Su Ministro de Estado

Su Majestad el Rey de Italia  
Al Excelentísimo señor Marqués Paulucci de' Calboli, Su Embajador en Madrid, Senador del Reino,

His Majesty the King of Italy, and His Majesty the King of Spain, being desirous of further strengthening the ties of friendship which already unite the two countries and of helping to maintain general peace, have decided to conclude a Treaty of friendship, conciliation and judicial settlement in regard to questions which may arise between the two countries

They have therefore appointed as their Plenipotentiaries

His Majesty the King of Italy  
His Excellency the Marquis Paulucci di' Calboli, His Ambassador Extraordinary and Plenipotentiary, accredited to His Most Catholic Majesty, Senator of the Kingdom,

His Majesty the King of Spain.  
His Excellency Don José de Yanguas Messia, His Minister for Foreign Affairs,

<sup>1</sup> The Italian text is also authentic

los cuales despues de comunicarse sus plenos poderes y de haberlos hallado en buena y debida forma han convenido en las disposiciones siguientes:

ARTÍCULO I. Las Partes contratantes se comprometen a someter a un procedimiento de conciliación las diferencias, de cualquier naturaleza que sean, que surgieren entre ellas y que no hubieren podido ser resueltas por la vía diplomática en un plazo prudencial.

En el caso de que fracasare el procedimiento de conciliación se procurará un arreglo judicial, conforme a los artículos 7º. y siguientes del presente Tratado.

Los litigios para cuya solución esté prevista una jurisdicción especial por otros Acuerdos en vigor entre las Partes contratantes serán, sin embargo, sometidos a dicha jurisdicción.

ART. II. Cuando se trate de un litigio que, según los términos de la legislación de una de las Partes, sea de la competencia de una autoridad judicial, la Parte demandada podrá oponerse a que sea sometido a un procedimiento de conciliación y, en su caso, a un arreglo judicial, siempre que no haya sido objeto de una decisión definitiva por parte de dicha autoridad judicial. En el caso de que la Parte demandante se propusiera impugnar esta decisión judicial, el litigio deberá ser sometido a procedimiento de conciliación dentro del año, a contar de la referida decisión.

ART. III. Las Partes contratantes instituirán una Comisión permanente de conciliación compuesta de cinco Miembros.

Las Partes nombrarán libremente cada una un Miembro y designarán los otros tres de común acuerdo. Estos tres Miembros no

Who, having communicated their full powers found in good and due form, have agreed upon the following provisions:

ARTICLE I. The Contracting Parties undertake to submit to the procedure of conciliation all disputes of any nature whatever which may arise between them, and which it may not have been possible to settle within a reasonable time by diplomatic methods.

In the event of the procedure of conciliation proving unsuccessful, a judicial settlement shall be sought in accordance with Articles VII *et seq.* of the present Treaty.

Disputes for the solution of which a special procedure has been laid down in other conventions in force between the Contracting Parties shall, however, remain subject to such special procedure.

ART. II. In the case of a dispute which, according to the law of one of the Parties, comes within the jurisdiction of the Courts, the defendant Party may oppose the submission of the dispute to a procedure of conciliation and ultimately to judicial settlement, so long as no final judgment has been pronounced by the Court in question. Should the complainant Party desire to contest the judgment, the conciliation procedure must be applied to the dispute within one year from the date on which the judgment was pronounced.

ART. III. The Contracting Parties shall establish a Permanent Commission of Conciliation consisting of five members.

Each Party shall appoint one member of its own choosing, the other three being appointed by agreement between the Parties.

deberán ser súbditos de las Partes contratantes, ni estar domiciliados en su territorio, ni hallarse a su servicio. Las Partes designarán, de común acuerdo, el Presidente entre estos tres Miembros.

Mientras no se haya iniciado procedimiento alguno, cada una de las Partes contratantes podrá revocar el nombramiento del Comisario nombrado por ella y designarle un sucesor, así como también retirar su consentimiento al nombramiento de cada uno de los tres Miembros designados en común. En este caso ha lugar a proceder sin retraso al nombramiento de los Miembros cuyo mandato hubiera finalizado.

Se procederá al reemplazo de los Comisarios conforme a la manera fijada para su nombramiento.

Durante el curso efectivo del procedimiento, los Miembros nombrados de común acuerdo recibirán una indemnización, cuya cuantía será fijada por las Partes contratantes y sufragada por ellas por partes iguales. En cambio, cada Parte fijará y satisfará por sí misma la indemnización del Miembro de la Comisión nombrado por ella.

Cada Parte sufragará una cuota igual de los gastos generales de la Comisión.

La Comisión se constituirá dentro de los seis meses siguientes al canje de las ratificaciones del presente Tratado y se reunirá en el lugar designado por su Presidente.

Si el nombramiento de los Miembros que han de designarse de común acuerdo no se efectuase en el plazo de seis meses, a partir del canje de las ratificaciones, o, en caso de substitución, en el de tres meses, a partir de la vacante del puesto, se procederá a los nombramientos en conformidad con el art. 45 del Convenio de El Haya.

The three latter members may not be nationals of the Contracting Parties or be domiciled in their territories or be employed in their service. The Contracting Parties shall by agreement appoint one of these three members as president.

So long as no proceedings have been begun, either Contracting Party may revoke the appointment of its Commissioner and nominate a successor, it may also withdraw its consent to the appointment of any of the three Commissioners appointed jointly. In this case the Commissioners whose mandates are terminated shall be replaced without delay.

The Commissioners shall be replaced in the same manner as they were appointed. For the actual duration of the procedure the jointly appointed Commissioners shall receive an allowance to be fixed by agreement between the Contracting Parties and to be paid by them in equal shares. On the other hand each Party shall fix and pay the allowance of the Commissioner appointed by itself.

The general expenses of the Commission shall be borne by the Contracting Parties in equal shares.

The Commission shall be constituted within six months after the exchange of the ratifications of the present Treaty. It shall meet in the place selected by its President.

If the appointment of the members to be nominated jointly is not made within six months as from the date of the exchange of ratifications or, in the case of replacement, within three months after the vacancy occurs, these appointments shall be made in conformity with Article 45 of the Hague Convention of October 18, 1907, for the

de 18 de Octubre de 1907 para el arreglo pacífico de los conflictos internacionales.

ART IV. Salvo pacto en contrario, el procedimiento de conciliación se regirá por el Convenio de El Haya de 18 de Octubre de 1907 para el arreglo pacífico de los conflictos internacionales

ART V La Comisión de conciliación podrá ser requerida por una sola de las Partes. Esta notificará su demanda al Presidente de la Comisión y a la parte contraria. La Comisión podrá, sin embargo, ofrecer espontáneamente su concurso, si su Presidente y dos de sus Miembros consienten en ello.

Las Partes contratantes se comprometen a facilitar, en todos los casos y en todos conceptos, los trabajos de la Comisión, y en particular a utilizar todos los medios de que dispongan, según sus legislaciones, para investir a la citada Comisión de la misma competencia que a sus Tribunales Supremos en lo que concierne a la citación, comparecencia de testigos o peritos, así como a las inspecciones oculares.

ART VI La Comisión de conciliación tendrá a su cargo examinar las cuestiones particulares que le sean sometidas, consignar el resultado de su investigación en un informe destinado a dilucidar las cuestiones de hecho y facilitar así la solución de los litigios. En su informe precisará los puntos de controversia que estos litigios ocasionen y acompañará a su dictamen las proposiciones susceptibles de facilitar un acuerdo entre las Partes.

El informe deberá ser presentado dentro de los seis meses, a partir del día en que la Comisión haya sido requerida, a menos que las Partes contratantes decidan abreviar o

#### Pacific Settlement of International Disputes

ART IV. Failing any special agreement to the contrary, the procedure of conciliation shall be governed by the rules laid down in the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART V. A question may be submitted to the Commission of Conciliation by either of the Parties, who shall notify its request to the President of the Commission and to the other Party. The Commission, however, may offer its services, should its President and two of the Commissioners agree to such a course of action.

The Contracting Parties undertake to assist the Commission in its work, in every possible way and in every respect and in particular to employ all the means they possess under their respective laws to invest it with the same powers as their Supreme Courts as regards the calling and hearing of witnesses and experts and the carrying out of investigations on the spot.

ART VI. It shall be the duty of the Conciliation Commission to consider the various questions submitted to it and to embody the results of its enquiry in a report, the object of which shall be to elucidate questions of fact and thus to facilitate the settlement of the dispute. In its report it shall state the controversial points in the case and shall then make such recommendations as might lead to an agreement between the Parties.

The Commission shall report within six months from the day on which the dispute is submitted to it unless the Contracting Parties decide to curtail or extend this

prorrogar ese plazo. Deberá hacerse en tres ejemplares, uno para cada una de las Partes y el tercero se conservará en los archivos de la Comisión.

La Comisión fijará el plazo dentro del cual las Partes deberán pronunciarse en relación a sus proposiciones, así como el plazo hasta la expiración del cual aquéllas podrán, en caso de fracasar el procedimiento de conciliación, someter el litigio a un arreglo judicial. Estos dos plazos no podrán, sin embargo, exceder el primero de seis meses y el segundo de tres.

El informe de la Comisión no tendrá, ni en lo que se refiere a la exposición de hechos, ni en lo que concierne a las consideraciones jurídicas, el carácter de una sentencia definitiva obligatoria.

ART VII Si las Partes no aceptan las proposiciones de la Comisión de conciliación cualquiera de ellas podrá, dentro del plazo fijado por esta última, pedir que el litigio sea sometido al Tribunal Permanente de Justicia Internacional.

En el caso de que a juicio del Tribunal, el litigio no fuese de orden jurídico las Partes convienen en que será resuelto *ex æquo et bono*.

ART VIII Las Partes contratantes podrán, sin embargo, convenir en someter todo litigio a un Tribunal arbitral, constituido conforme a los artículos 55 y siguientes del Convenio de 18 de Octubre de 1907 para el arreglo pacífico de los conflictos internacionales o conforme a cualquier otro Acuerdo existente entre ellas.

ART IX Las Partes contratantes, ateniéndose a las disposiciones del Estatuto y del Reglamento del Tribunal Permanente de

period. The report shall be drawn up in triplicate, one copy being sent to each of the Parties and the third being filed in the archives of the Commission.

The Commission shall prescribe a period within which the Parties shall be required to take their decision as regards its recommendations, and also a period within which the Parties may, in case the procedure of conciliation should prove unsuccessful, submit the dispute to a judicial settlement. These periods may not, however, exceed six months in the case of the first period, and three months in the case of the second.

The Commission's report shall not be in the nature of a compulsory final award as regards either the statement of facts or the legal considerations.

ART VII Should the Parties not accept the recommendations of the Commission of Conciliation, either of them may within a period prescribed by the Commission, request that the dispute be submitted to the Permanent Court of International Justice. If, in the opinion of the Court the case is not of a juridical nature, the Parties shall agree to its being settled *ex æquo et bono*.

ART VIII Nevertheless, the Contracting Parties may decide to refer any dispute to a Court of Arbitration established in conformity with Articles 55 *et seq* of the Convention of October 18, 1907, for the Pacific Settlement of International Disputes, or in conformity with any other agreement concluded between them.

ART IX On the basis of the Statute and the Rules of the Permanent Court of International Justice, the Contracting Parties

Justicia Internacional, establecerán un compromiso con el fin de determinar el objeto del litigio, la competencia especial que podría ser atribuida al Tribunal, así como todas las condiciones que las Partes hayan convenido

El compromiso se establecerá por canje de Notas entre los Gobiernos de las Partes contratantes y será interpretado en todos sus puntos por el Tribunal de Justicia

Si el compromiso no hubiese sido fijado dentro de los tres meses a contar del día en que una de las Partes hubiera sido demandada a los fines del arreglo judicial, cualquiera de las Partes podrá acudir al Tribunal de Justicia por vía de simple demanda

ART X Si en una sentencia, dictada conforme al presente Tratado se estableciese que una decisión de carácter judicial o de cualquier otra autoridad dependiente de una de las Partes contratantes se halla completa o parcialmente en oposición con el derecho de gentes y si el derecho constitucional de esta Parte no permitiese o solo permitiese imperfectamente anular por vía administrativa las consecuencias de la decisión de que se tratare la sentencia concedera a la Parte perjudicada una satisfacción equitativa en otro orden

ART XI La sentencia dictada por el Tribunal Permanente de Justicia Internacional será ejecutada de buena fe por las Partes

Durante el curso del procedimiento de conciliación o del procedimiento judicial las Partes contratantes se comprometen a renunciar, en lo posible, a toda medida susceptible de producir una repercusión perjudicial en la aceptación de las proposiciones de la Comisión de conciliación o sobre la ejecución de la sentencia

shall draw up a special agreement (*compromis*) specifying the subject of the dispute, the special jurisdiction conferred upon the Court and any other conditions agreed upon between the Parties

The special agreement shall be constituted by an exchange of notes between the Governments of the Contracting Parties and all points contained therein shall be interpreted by the Court of Justice

If the special agreement is not drawn up within three months from the day on which one of the Parties was requested to submit the matter for judicial settlement either Party may bring the question before the Court of Justice by a simple request

ART X If, in a judgment rendered in conformity with the present Treaty, it is found that a ruling of a Court of Law or any other authority of one of the Contracting Parties is wholly or partly at variance with international law, and should the constitutional law of that Party not allow or only inadequately allow the cancellation of this decision by administrative procedure the Party prejudiced shall be granted equitable satisfaction in some other form

ART XI The judgment rendered by the Permanent Court of International Justice shall be carried out by the Parties in good faith

During the procedure of conciliation or the judicial procedure, the Contracting Parties shall undertake to abstain as far as possible from all measures which might prejudicially affect the acceptance of the proposals of the Commission of Conciliation or the execution of the judgment



ART. XII. Las dificultades que surgieren en la interpretación o en la ejecución del presente Tratado serán, salvo pacto en contrario, sometidas directamente por medio de simple demanda al Tribunal Permanente de Justicia Internacional.

ART. XIII. Si una de las Partes contratantes, a pesar de su actitud pacífica, fuese atacada por una tercera Potencia o por varias de ellas, la otra Parte contratante observará neutralidad durante toda la duración del conflicto.

ART. XIV. El presente Tratado será ratificado en el más breve plazo posible y los instrumentos de ratificación se canjearán en Madrid.

El Tratado se concierta por un período de diez años, a contar del canje de ratificaciones; de no ser denunciado seis meses antes de la expiración de este plazo, permanecerá en vigor por un nuevo período de cinco años, y así sucesivamente. Si en el momento de la expiración del presente Tratado algún procedimiento de conciliación o procedimiento judicial estuviere pendiente, seguirá su curso conforme a las disposiciones del referido Tratado o de cualquier otro Acuerdo que las Partes contratantes hubieren convenido para substituirlo.

ART. XV. El presente Tratado, redactado en castellano y en italiano, hará igualmente fe en ambos idiomas.

En testimonio de lo cual, los Plenipotenciarios firman el presente Tratado.

Hecho por duplicado en Madrid a siete de Agosto de mil novecientos veintiséis.

José de Yanguas  
Paulucci de' Calboli

ART. XII. Any disputes which may arise as to the interpretation or the execution of the present Treaty shall, in the absence of agreement to the contrary be submitted direct to the Permanent Court of International Justice by a simple request.

ART. XIII. Should one of the Contracting Parties, notwithstanding its peaceful attitude, be attacked by a third Power or third Powers, the other Contracting Party shall observe neutrality during the whole of the conflict.

ART. XIV. The present Treaty shall be ratified as soon as possible and the instruments of ratification shall be exchanged at Madrid.

The Treaty shall remain in force for a period of ten years from the date of the exchange of ratifications. Unless denounced six months before the expiration of this period it shall remain in force for a further period of five years, and similarly thereafter. If a procedure of conciliation or a judicial procedure is pending at the time of the expiration of the present Treaty, it shall pursue its course in accordance with the provisions of the present Treaty or of any other Convention which the Contracting Parties may have agreed to substitute therefor.

ART. XV. The present Treaty has been drawn up in two original copies, one in Spanish and one in Italian, both copies being authentic.

In faith whereof the Plenipotentiaries have signed the present Treaty.

Done at Madrid on August 7, 1926.

Paulucci di' Calboli  
Yanguas Messia

## PERMANENT COMMISSION OF CONCILIATION

*President appointed by both Parties*

COUNT HENRY CARTON DE WIART, Doctor of Law, former Belgian Minister of Justice. (*Belgian.*)

*Members appointed by both Parties*

SIR MAURICE DE BUNSEN, former British Ambassador to Spain. (*British.*)

JOSEPH PILLER. (*Swiss.*)

*Member appointed by Italy*

MARQUIS PIETRO TOMASSI DELLA TORRETTA, Senator, former Italian Ambassador to Great Britain. (*Italian.*)

*Member appointed by Spain*

LUIS POLO DE BERNABÉ, Senator, former Spanish Ambassador to Germany. (*Spanish.*)

## No. 72

POLAND-KINGDOM OF THE SERBS, CROATS, AND  
SLOVENES: TREATY OF CONCILIATION AND  
ARBITRATION

Signed at Geneva September 18, 1926; ratifications exchanged May 15, 1928.

Original text and English translation from League of Nations, *Treaty Series*, LXXVIII, 420-431.

*(Translation)*

Le Président de la République de Pologne et Sa Majesté le Roi des Serbes, Croates et Slovènes, animés du désir de développer les relations amicales qui unissent les deux pays, s'inspirant des principes de la résolution de l'Assemblée de la Société des Nations, en date du 22 septembre 1922, relative à l'institution des Commissions de conciliation entre Etats, et désirant consacrer le principe de l'arbitrage obligatoire dans leurs rapports réciproques par un accord général visé à l'article 21 du Pacte de la Société des Nations, ont résolu de conclure un traité de conciliation et d'arbitrage et ont nommé à cet

The President of the Polish Republic and His Majesty the King of the Serbs, Croats and Slovenes, being desirous of developing the friendly relations which unite the two countries, being guided by the principles laid down in the resolution of the Assembly of the League of Nations, dated September 22, 1922, concerning the creation of Conciliation Commissions between States, and desiring to embody the principle of compulsory arbitration in their reciprocal relations by a general agreement such as is contemplated by Article 21 of the Covenant of the League of Nations, have resolved to conclude a

effet pour leurs plénipotentiaires, savoir:

Le Président de la République de Pologne:

M. August Zaleski, ministre des Affaires étrangères;

Sa Majesté le Roi des Serbes, Croates et Slovènes:

M. Momtchilo Nintchitch, docteur en droit, ministre des Affaires étrangères;

Lesquels, après avoir échangé leurs pleins pouvoirs, reconnus en bonne et due forme, ont convenu des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Les Hautes Parties contractantes s'engagent à soumettre à la procédure de conciliation ou à la procédure d'arbitrage tous les différends qui viendraient à s'élever entre elles et qui n'auraient pu être résolus par la voie diplomatique dans un délai raisonnable.

Le présent traité ne s'applique pas aux différends pour la solution desquels une procédure spéciale est ou sera prescrite par d'autres conventions entre les Parties contractantes. Toutefois, rien n'empêche les Parties contractantes d'appliquer même pour ces différends la procédure de conciliation établie par le présent traité.

Tout différend susceptible d'être réglé de la manière indiquée ci-dessus sera soumis à la procédure de conciliation, à moins que les Parties ne conviennent de le soumettre immédiatement à l'arbitrage.

Au cas où la procédure de conciliation prévue par le présent traité n'aboutirait pas, le différend sera soumis à l'arbitrage, si l'une des Parties le demande.

ART. 2. Dans les questions qui, selon la législation interne de l'une des Parties, sont du ressort des

Treaty of Conciliation and Arbitration, and have appointed for this purpose as their Plenipotentiaries:

The President of the Polish Republic:

M. August Zaleski, Minister for Foreign Affairs;

His Majesty the King of the Serbs, Croats and Slovenes:

M. Momtchilo Nintchitch, Doctor of Laws, Minister for Foreign Affairs;

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1. The High Contracting Parties undertake to submit to the procedure of conciliation or of arbitration all disputes which may arise between them and which it has not been found possible to settle by diplomacy within a reasonable time.

The present Treaty shall not apply to disputes for the settlement of which a special procedure is or may hereafter be provided in other Conventions between the Contracting Parties. The Contracting Parties shall not, however, be precluded from also applying to such disputes the conciliation procedure which is provided in the present Treaty.

Any dispute capable of being settled in the manner set forth above shall be submitted to the procedure of conciliation, unless the Parties agree to submit it immediately to arbitration.

Should the procedure of conciliation laid down in the present Treaty fail to provide a settlement, the dispute shall be submitted to arbitration if either of the Parties so requests.

ART. 2. If, in accordance with the municipal legislation of one of the Parties, the matter in dispute

autorités judiciaires nationales, cette Partie pourra s'opposer à ce qu'elle soit soumise à une procédure de conciliation ou d'arbitrage, avant que la juridiction nationale compétente se soit prononcée définitivement, sauf le cas de déni de justice.

La demande de conciliation devra, dans ce cas, être formée une année au plus tard à compter du jugement définitif.

ART. 3. Dans les six mois qui suivront l'échange des ratifications du présent traité, les Parties contractantes constitueront une commission permanente de conciliation composée de cinq membres.

Chaque partie désignera deux membres: l'un parmi ses propres nationaux, l'autre parmi les ressortissants d'un Etat tiers. Ce dernier ne doit ni avoir son domicile sur le territoire de la Partie qui l'a nommé, ni se trouver à son service.

Les deux Parties désigneront pour la durée de cinq ans, d'un commun accord, le président de la commission parmi les ressortissants d'un Etat tiers. A défaut d'entente entre les Parties, il sera procédé à la nomination du président conformément à l'article 45 de la Convention de La Haye pour le Règlement pacifique des conflits internationaux du 18 octobre 1907.

ART. 4. En cas de décès ou de retraite de l'un des membres de la Commission de conciliation, il devra être pourvu à son remplacement si possible dans les trois mois qui suivront, et en tout cas aussitôt qu'un différend aura été soumis à la commission.

Au cas où l'un des membres de la Commission de conciliation serait momentanément empêché de prendre part aux travaux de la commission par suite de maladie ou de toute autre circonstance, la

comes within the jurisdiction of the national judicial authorities, that Party may decline to have the dispute submitted to a procedure of conciliation or arbitration until the competent national courts have given a final decision, unless the case be one of a denial of justice.

The request for conciliation must in the above case be put forward within one year, at the latest, from the date of the final judgment.

ART. 3. In the six months following the exchange of the ratifications of the present Treaty, the Contracting Parties shall set up a permanent Conciliation Commission consisting of five members.

Each Party shall appoint two members, one being a national of its own State and the other a national of a third State. The latter must neither be domiciled in the territory of the Party which has appointed him, nor be in the service of that Party.

The two Parties shall jointly appoint a national of a third State as President of the Commission for a period of five years. Should the Parties fail to agree on this choice, the President shall be appointed in accordance with Article 45 of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 4. In case of the death or withdrawal of one of the members of the Conciliation Commission arrangements shall be made to replace that member, if possible within the following three months and in any case as soon as a dispute has been submitted to the Commission.

Should one of the members of the Conciliation Commission be temporarily prevented as a result of illness or any other circumstance from taking part in the work of the

Partie qui l'a nommé désignera un suppléant qui siégera temporairement à sa place.

Les fonctions du président cessent à la fin de son mandat. Toutefois, les deux Parties, d'un commun accord, peuvent renouveler son mandat pour une nouvelle période de cinq ans.

Tant que la procédure n'est pas engagée devant la commission, chacune des Parties contractantes a le droit de révoquer les membres nommés par elle; dans ce cas, le membre éliminé sera remplacé sans retard.

ART. 5. Dans un délai de quinze jours à partir de la date, où l'une des Parties aura porté un différend devant la Commission de conciliation, chacune des Parties pourra, pour l'examen de ce différend, remplacer le membre national, désigné par elle, par une personne possédant une compétence spéciale dans la matière.

La Partie qui voudrait user de ce droit on avertira immédiatement l'autre Partie; celle-ci aura, dans ce cas, la faculté d'user du même droit dans un délai de quinze jours à partir de la date où l'avertissement lui sera parvenu.

ART. 6. La Commission de conciliation aura pour tâche de faciliter la solution du différend en éclaircissant par un examen impartial et consciencieux les questions de fait et en formulant des propositions en vue de règlement du litige, conformément aux dispositions de l'article 12 du présent traité.

La commission sera saisie sur requête adressée à son président par l'une des Parties contractantes.

Notification de cette requête sera faite en même temps à la partie adverse par la partie qui deman-

Commission, the Party which has appointed him shall choose a substitute who shall replace him temporarily.

The President shall cease to exercise his duties as soon as his term of office expires. The two Parties may, however, by common consent, renew his appointment for a further period of five years.

So long as proceedings have not been opened before the Commission, each Contracting Party shall be entitled to recall the members which it has appointed; in such case the member who has been withdrawn shall be replaced without delay.

ART. 5. Within fifteen days from the date on which one of the Parties has laid a dispute before the Conciliation Commission, each of the Parties may, for the consideration of this dispute, replace the member who is a national of its own State by a person possessing special competence in the question.

A Party which desires to avail itself of this right shall immediately inform the other Party, and the latter shall, in such case, be entitled to avail itself of the same right within a period of fifteen days from the date on which it received notification.

ART. 6. The Conciliation Commission shall endeavour to facilitate the settlement of the dispute by conducting an impartial and conscientious enquiry into the facts, and by formulating proposals for the settlement of the dispute in conformity with the provisions of Article 12 of the present Treaty.

The Commission shall be informed by means of a request addressed to its President by either of the Contracting Parties.

Notification of such request shall at the same time be made to the

dera l'ouverture de la procédure de conciliation.

ART. 7. La Commission de conciliation se réunira, sauf accord contraire, au lieu désigné par son président.

ART. 8. La procédure devant la Commission de conciliation sera contradictoire.

La commission réglera elle-même la procédure en tenant compte, sauf décision contraire prise à l'unanimité, des dispositions contenues au titre III de la Convention de La Haye du 18 octobre 1907 pour le Règlement pacifique des conflits internationaux.

Les délibérations de la commission auront lieu à huis clos à moins que la commission, d'accord avec les parties, n'en décide autrement.

ART. 9. Sauf disposition contraire du présent traité, les décisions de la Commission de conciliation seront prises à la majorité des voix; chaque membre disposera d'une voix. La commission ne pourra prendre de décision valable que si tous les membres sont présents.

ART. 10. Les Parties contractantes ont le droit de nommer auprès de la commission des agents spéciaux qui serviront en même temps d'intermédiaires entre elles et la commission.

ART. 11. Les Parties contractantes fourniront à la commission de conciliation toutes les informations utiles et lui faciliteront à tous égards l'accomplissement de sa tâche.

ART. 12. La Commission de conciliation présentera son rapport dans les six mois à compter du jour

other Party by the Party which has requested the opening of proceedings of conciliation.

ART. 7. The Conciliation Commission shall, in the absence of any agreement to the contrary, meet at the place designated by its President.

ART. 8. In proceedings before the Conciliation Commission both Parties shall be heard.

The Commission shall itself determine the procedure, being guided (unless it unanimously decides to the contrary) by the provisions of Chapter III of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

The discussions shall take place in private unless the Commission, with the assent of the Parties, should decide otherwise.

ART. 9. Unless otherwise provided in the present Treaty, the decisions of the Conciliation Commission shall be taken by a majority vote; each member shall have one vote. The decisions of the Commission shall not be valid unless all the members are present.

ART. 10. The Contracting Parties shall be entitled to appoint special agents to be attached to the Commission, who shall act at the same time as intermediaries between the Contracting Parties and the Commission.

ART. 11. The Contracting Parties shall supply the Conciliation Commission with all necessary information and shall facilitate its work in every respect.

ART. 12. The Conciliation Commission shall submit its report within six months, reckoned from

de sa première réunion, à moins que les Parties contractantes ne décident, d'un commun accord, d'abréger ou de proroger ce délai.

Le rapport comportera, s'il y a lieu, un projet de règlement du différend.

L'avis motivé des membres restés en minorité sera consigné dans le rapport.

Un exemplaire du rapport, signé par le président, sera remis à chacune des parties.

Le rapport de la commission n'aura, ni en ce qui concerne l'exposé des faits, ni en ce qui concerne les considérations juridiques, le caractère d'une sentence arbitrale ou judiciaire.

ART. 13. Les Parties porteront à leur connaissance réciproque, ainsi qu'à la connaissance du président de la Commission de conciliation, dans un délai raisonnable n'excédant toutefois pas la durée de trois mois, si elles acceptent les conclusions du rapport et les propositions qui y sont contenues.

Il appartient aux parties de décider, d'un commun accord, si le rapport de la commission doit être publié.

ART. 14. Pendant la durée effective de la procédure de conciliation, le président et les membres de la commission toucheront une indemnité dont le montant sera arrêté entre les Parties contractantes.

Chaque Partie supportera ses propres frais et une partie égale des frais de la commission.

ART. 15. Au cas où la Commission de conciliation n'aboutirait pas à la rédaction d'une proposition relative au règlement du différend, dans le délai visé à l'article 12, alinéa premier, du présent traité:

the date of its first meeting, unless the Contracting Parties decide by agreement to shorten or lengthen this period.

The report shall include, if necessary, a draft scheme for the settlement of the dispute.

The opinion of the minority, if any, accompanied by a statement of reasons, shall be included in this report.

A copy of the report, signed by the President, shall be communicated to each of the Parties.

The report of the Commission shall not be in the nature of an arbitral or judicial award as regards either the statement of the facts or the legal considerations.

ART. 13. The Parties shall inform each other and the President of the Conciliation Commission within a reasonable period, which shall not in any case exceed three months, whether they accept the findings of the report and the proposals contained therein.

It will be for the Parties to decide, by agreement, whether the report of the Commission is to be published.

ART. 14. While conciliation proceedings are actually in progress, the President and members of the Commission shall receive allowances on a scale to be determined by the Contracting Parties.

Each Party shall bear its own expenses and an equal share of the expenses of the Commission.

ART. 15. Should the Conciliation Commission not succeed in framing a proposal for the settlement of the dispute within the period referred to in the first paragraph of Article 12 of the present Treaty;

Au cas où l'une des Parties contractantes ou toutes les deux n'adopterait pas les conclusions du rapport de la Commission de conciliation et les propositions qui y sont contenues;

Au cas où elles ne se prononceraient pas dans le délai visé à l'article 13 du présent traité qu'elles adoptent les conclusions du rapport et les propositions qui y sont contenues,

Le différend sera soumis à l'arbitrage et le tribunal d'arbitrage sera établi par l'accord des Parties contractantes.

A défaut de constitution du tribunal par l'accord des parties dans un délai de trois mois à compter du jour où l'une des parties aura adressé à l'autre la demande d'arbitrage, il sera procédé de la manière suivante:

Chaque Partie nommera deux arbitres dont l'un devra être sur la liste des membres de la Cour permanente d'arbitrage et choisi à l'exclusion de ses propres nationaux; elles désignent, d'un commun accord, le président du tribunal. A défaut d'un accord, il sera procédé à la nomination de président conformément à l'article 45 de la Convention de La Haye pour le Règlement pacifique des conflits internationaux du 18 octobre 1907.

ART. 16. Lorsqu'il y aura lieu à un arbitrage entre elles, les Parties contractantes s'engagent à conclure, dans un délai de trois mois à compter du jour, où l'une des Parties aura adressé à l'autre la demande d'arbitrage, un compromis spécial déterminant nettement l'objet du différend, les modalités de la procédure et les compétences particulières du tribunal, ainsi que

Or should one of the Contracting Parties, or both, fail to adopt the findings of the report of the Conciliation Commission and the proposals contained therein;

Or should they fail to declare within the period referred to in Article 13 of the present Treaty that they adopt the findings of the report and the proposals contained therein,

The dispute shall be submitted to arbitration and a Court of Arbitration shall be set up by agreement between the Contracting Parties.

If the Court of Arbitration is not set up by agreement between the Parties within a period of three months reckoned from the date on which one of the Parties has addressed the request for arbitration to the other Party, the following procedure shall be adopted:

Each Party shall appoint two arbitrators, one of whom must be on the list of members of the Permanent Court of Arbitration, but must not be a national of the Party in question. The President of the Court shall be appointed by agreement between the Parties. Should they fail to agree on this choice, the President shall be appointed in accordance with Article 45 of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 16. Whenever a question has to be decided by arbitration, the Contracting Parties undertake to conclude within three months reckoned from the day on which either Party has addressed a request for arbitration to the other Party, a special agreement clearly defining the subject of the dispute, the method of procedure, the special competence of the Court and



toutes autres conditions arrêtées entre elles.

A défaut des clauses compromissaires contraires, elles se conformeront pour tout ce qui concerne la procédure arbitrale aux dispositions établies par la Convention signée à La Haye le 18 octobre 1907, pour le Règlement pacifique des conflits internationaux.

ART. 17. Il est entendu que les obligations assumées par les Parties contractantes en vertu du présent traité n'entravent aucunement leur faculté de soumettre, d'un commun accord, un différend qui aurait pu surgir entre elles à la Cour permanente de justice internationale à La Haye.

ART. 18. Les dispositions des deux derniers alinéas de l'article 16 seront également appliquées lorsqu'en vertu de l'article 1, alinéa 4, le différend sera soumis immédiatement à l'arbitrage.

ART. 19. Lorsque le Tribunal d'arbitrage ou la Cour permanente de justice internationale sont appelés à décider sur un différend soumis à eux, ils appliqueront, sauf accord contraire des Parties:

1° Les conventions internationales, soit générales, soit spéciales, établissant des règles expressément reconnues par les états en litige,

2° La coutume internationale comme preuve d'une pratique générale acceptée comme étant le droit;

3° Les principes généraux de droit reconnus par les nations civilisées,

4° Sous réserve de la disposition de l'article 59 du Statut de la Cour permanente, les décisions judiciaires et la doctrine des publicistes les plus qualifiés, comme moyen auxiliaire de détermination des règles de droit.

any other conditions mutually agreed upon.

Unless otherwise provided in the special agreement referred to above, the Contracting Parties shall, as regards arbitration procedure, observe the provisions of the Convention for the Pacific Settlement of International Disputes signed at The Hague on October 18, 1907.

ART. 17. It is understood that the obligations assumed by the Contracting Parties under the present Treaty shall in no way restrict their right to submit, by agreement, any disputes which may arise between them to the Permanent Court of International Justice at The Hague.

ART. 18. The provisions of the two last paragraphs of Article 16 shall also apply when, in virtue of the fourth paragraph of Article 1, a dispute is submitted immediately to arbitration.

ART. 19. When the Court of Arbitration or the Permanent Court of International Justice are called upon to decide, a dispute submitted to them, the Commission unless otherwise provided, shall apply between the Parties, apply:

(1) International conventions, whether general or particular, establishing rules expressly recognised by the contending States;

(2) International custom, as evidence of a general practice accepted as law,

(3) The general principles of law recognised by civilised nations;

(4) Subject to the provisions of Article 59 of the Statute of the Permanent Court, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

ART. 20. Les dispositions de l'article 14 seront appliquées respectivement au tribunal d'arbitrage.

ART. 20. The provisions of Article 14 shall also apply to the Court of Arbitration.

ART. 21. La sentence arbitrale, de même que la sentence de la Cour permanente de justice internationale est obligatoire et doit être exécutée de bonne foi par les parties.

ART. 21. The arbitral award, as well as the award of the Permanent Court of International Justice, shall be binding and must be loyally carried out by both Parties.

Si, toutefois, la sentence établissait qu'une décision d'une instance judiciaire ou de toute autre autorité relevant de l'une des Parties contractantes se trouve entièrement ou partiellement en opposition avec une règle du droit international universellement reconnue et si le droit interne de cette partie ne permettait d'effacer ou de n'effacer qu'imparfaitement par voie administrative les conséquences de la décision dont il s'agit, il sera accordé à la partie lésée une satisfaction équitable d'un autre ordre.

If, however, the award establishes the fact that a decision of some judicial or other authority of one of the Contracting Parties is entirely or partly at variance with a universally recognised rule of international law, and if the municipal law of that Party precludes the annulment or only allows of a partial annulment, by administrative action, of the effects of the decision, the injured Party shall be accorded equitable satisfaction in some other manner.

En cas de contestation sur le sens ou la portée de la sentence, il appartient au tribunal qui l'a rendue de l'interpréter à la demande de chacune des parties.

Should any dispute arise regarding the meaning or scope of an award, the Court which has rendered the award shall interpret it, if either Party so requests.

ART. 22. Pendant la procédure de conciliation ou d'arbitrage, les Parties contractantes s'abstiendront de tout acte pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission de conciliation ou sur l'exécution de la sentence arbitrale.

ART. 22. While the procedure of conciliation or arbitration is in progress, the Contracting Parties shall refrain from any act which may have an influence prejudicial to the acceptance of the proposals of the Conciliation Commission or the execution of the arbitral award.

ART. 23. Tout différend relatif à l'interprétation du présent traité sera soumis à la Cour permanente de Justice internationale.

ART. 23. Any dispute regarding the interpretation of the present Treaty shall be submitted to the Permanent Court of International Justice.

ART. 24. Le présent traité sera ratifié aussitôt que faire se pourra et les instruments de ratification seront échangés à Belgrade.

ART. 24. The present Treaty shall be ratified as soon as possible and the instruments of ratification shall be exchanged at Belgrade.

Il entrera en vigueur le trentième jour après l'échange des ratifications et aura une durée de cinq ans.

S'il n'est dénoncé six mois avant son échéance, il sera censé être renouvelé pour une nouvelle période de cinq ans, et ainsi de suite.

En foi de quoi les plénipotentiaires ont signé le présent traité et y ont apposé leurs cachets.

Fait en double exemplaire, à Genève, le 18 septembre 1906.

August Zaleski  
M. Nintchitch

It shall come into force on the thirtieth day after the date of its ratification, and shall remain in force for five years.

If it has not been denounced six months before the date of its expiration, it shall be held to have been renewed for a further period of five years, and similarly thereafter for successive periods of five years.

In faith whereof the Plenipotentiaries have signed the present Treaty and have thereto affixed their seals.

Done at Geneva, in duplicate, September 18, 1920.

August Zaleski  
M. Nintchitch

#### PERMANENT COMMISSION OF CONCILIATION

No information available.

### No. 73

#### CZECHOSLOVAKIA-DENMARK: TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Prague November 30, 1926; ratifications exchanged September 23, 1927.

Original text communicated by the Danish Legation at Washington, D. C.; <sup>1</sup> English translation from League of Nations, *Treaty Series*, LXVII, 107-115.

#### (Translation)

Sa Majesté le Roi de Danemark et d'Islande et le Président de la République Tchécoslovaque

S'inspirant des heureuses relations d'amitié qui unissent leurs nations respectives,

Désireux d'assurer dorénavant, conformément aux principes consacrés par le Pacte de la Société des Nations, le règlement pacifique de tous les différends et conflits, de quelque nature qu'ils soient, qui

His Majesty the King of Denmark and Iceland and the President of the Republic of Czechoslovakia, inspired by the friendly relations existing between Denmark and Czechoslovakia, and being desirous of ensuring henceforward, in conformity with the principles laid down in the Covenant of the League of Nations, the pacific settlement of all differences and disputes of whatever nature

<sup>1</sup> See also League of Nations, *Treaty Series*, LXVII, 106.

viendraient à diviser le Danemark et la Tchécoslovaquie,

Ont résolu de conclure un Traité d'Arbitrage et ont nommé pour Leurs Plénipotentiaires respectifs, savoir:

Sa Majesté le Roi de Danemark et d'Islande:

Monsieur Niels Johan Wulfsberg Høst, Son Envoyé Extraordinaire et Ministre Plénipotentiaire à Praha;

Le Président de la République Tchécoslovaque:

Monsieur le Dr. Václav Girsá, Envoyé Extraordinaire et Ministre Plénipotentiaire,

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des articles suivants:

ARTICLE 1<sup>er</sup>. Les Hautes Parties Contractantes s'engagent réciproquement à régler, dans tous les cas, par voie pacifique et d'après les méthodes prévues par le présent Traité, tous les litiges ou conflits de quelque nature qu'ils soient, qui viendraient à s'élever entre le Danemark et la Tchécoslovaquie et qui n'auraient pu être résolus par les procédés diplomatiques ordinaires.

ART. 2. Toutes contestations entre les Hautes Parties Contractantes de quelque nature qu'elles soient, et qui n'auraient pu être réglées à l'amiable par les procédés diplomatiques ordinaires, seront soumises pour jugement, soit à la Cour permanente de Justice internationale, soit à un Tribunal arbitral ainsi qu'il est prévu ci-après.

Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres conventions en vigueur entre les Hautes Parties Contractantes seront réglées conformément aux dispositions de ces conventions.

which may arise between Denmark and Czechoslovakia, have resolved to conclude an Arbitration Treaty and have appointed as their Plenipotentiaries:

His Majesty the King of Denmark and Iceland:

M. Niels Johan Wulfsberg Høst, His Envoy Extraordinary and Minister Plenipotentiary at Prague;

The President of the Republic of Czechoslovakia:

Dr. Václav Girsá, Envoy Extraordinary and Minister Plenipotentiary;

Who, having communicated their full powers found in good and due form, have agreed upon the following Articles:

ARTICLE 1. The High Contracting Parties reciprocally undertake in every case to settle, by pacific means and in accordance with the procedure laid down in the present Treaty, all disputes or conflicts of whatever nature which may arise between Denmark and Czechoslovakia, and which it may not have been possible to settle by the normal methods of diplomacy.

ART. 2. All disputes of every kind between the High Contracting Parties which it may not have been possible to settle amicably by the normal methods of diplomacy shall be submitted for decision either to the Permanent Court of International Justice or to an arbitral tribunal as hereinafter laid down.

Disputes for the settlement of which a special procedure is provided in other conventions in force between the High Contracting Parties shall be settled in conformity with the provisions of those conventions.

ART. 3. Avant toute procédure arbitrale ou avant toute procédure devant la Cour permanente de Justice internationale, la contestation sera soumise à fin de conciliation à une Commission internationale permanente, dite *Commission permanente de Conciliation*, constituée conformément au présent Traité.

ART. 4. S'il s'agit d'une contestation dont l'objet, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux de celles-ci, y compris les tribunaux administratifs, le différend ne sera soumis à la procédure prévue par le présent Traité qu'après jugement passé en force de chose jugée et rendu dans des délais raisonnables par l'autorité judiciaire nationale compétente.

ART. 5. La Commission permanente de Conciliation prévue à l'article 3 sera composée de cinq membres, qui seront désignés comme il suit, savoir: chaque Partie désignera deux membres: l'un parmi ses propres nationaux, l'autre parmi les ressortissants d'un tiers Etat. Ce dernier ne doit ni avoir son domicile sur le territoire de la Partie qui l'a nommé, ni se trouver à son service. Les deux Parties désigneront d'un commun accord le Président de la Commission qui doit être d'une autre nationalité que les autres commissaires.

Les Commissaires sont nommés pour trois ans; leur mandat est renouvelable. Ils resteront en fonctions jusqu'à leur remplacement, et, dans tous les cas, jusqu'à l'achèvement de leurs travaux en cours au moment de l'expiration de leur mandat.

ART. 3. Before any resort is made to arbitral procedure or to procedure before the Permanent Court of International Justice, the dispute shall be submitted, with a view to amicable settlement, to a permanent international commission, styled the "Permanent Conciliation Commission," constituted in accordance with the present Treaty.

ART. 4. In the case of a dispute the occasion of which according to the municipal law of one of the Parties falls within the competence of the national courts of such Party, including the administrative tribunals, the matter in dispute shall not be submitted to the procedure laid down in the present Treaty until a judgment with final effect has been pronounced, within a reasonable time, by the competent national judicial authority.

ART. 5. The Permanent Conciliation Commission provided for in Article 3 shall be composed of five members, who shall be appointed as follows: the Contracting Parties shall each nominate two members, one from among their own nationals and the other from the nationals of a third State. The latter members must not be resident within the territory of the Party appointing them nor be employed in the service of such Party. The two Parties shall jointly appoint the President of the Commission, who must be of a nationality different from that of the other members of the Commission.

The commissioners shall be appointed for three years and their mandate shall be renewable. Their appointment shall continue until their replacement, and in any case, until the completion of the work in hand at the moment of the expiry of their mandate.

Il sera pourvu, dans le plus bref délai, aux vacances qui viendraient à se produire, par suite de décès, de démission ou de quelque autre empêchement, en suivant le mode fixé pour les nominations.

ART. 6. La Commission permanente de Conciliation sera constituée dans les trois mois qui suivront l'entrée en vigueur de la présente Convention.

Si la nomination du Président à désigner en commun n'intervenait pas dans le délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège le Président de la Cour permanente de Justice internationale ou — s'il est ressortissant d'une des Hautes Parties Contractantes — le vice-président ou le membre le plus ancien de la Cour, qui n'est ressortissant d'aucune des Hautes Parties Contractantes, sera, à défaut d'autre entente, prié de procéder à la désignation nécessaire.

ART. 7. La Commission permanente de Conciliation sera saisie par voie de requête adressée au Président par les deux Parties agissant d'un commun accord ou, à défaut, par l'une ou l'autre des Parties.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à la Partie adverse.

ART. 8. Dans un délai de quinze jours à partir de la date où la Commission permanente de Concili-

Vacancies which may occur as a result of death, resignation, or any other cause, shall be filled within the shortest possible time in the manner laid down for the nominations.

ART. 6. The Permanent Conciliation Commission shall be constituted within three months from the entry into force of the present Convention.

If the nomination of the President, to be appointed by common agreement, should not have taken place within the said period, or, in the case of the filling of a vacancy, within three months from the date on which the seat falls vacant, the President of the Permanent Court of International Justice, or — if the latter is a national of one of the High Contracting Parties — the Vice-President or the senior member of the Court not a national of either of the High Contracting Parties, shall, in the absence of other agreement, be requested to make the necessary appointment.

ART. 7. The Permanent Conciliation Commission shall be informed by means of a request addressed to the President by the two Parties acting in agreement or, in the absence of such agreement, by one or other of the Parties.

The request, after having given a summary account of the subject of the dispute, shall contain an invitation to the Commission to take all necessary measures with a view to arriving at an amicable settlement.

If the request emanates from only one of the Parties, notification thereof shall be made without delay by that Party to the other Party.

ART. 8. Within fifteen days from the date on which the Permanent Conciliation Commission has been

ation aura été saisie de la contestation chacune des Parties pourra, pour l'examen de cette contestation, remplacer un de ses Commissaires par un personne possédant une compétence spéciale dans la matière, toutefois en observant les règles prévues par l'article 5, I alinéa.

La Partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie; celle-ci aura, dans ce cas, la faculté d'agir de même dans un délai de quinze jours à partir de la date où la notification lui sera parvenue.

ART. 9. La Commission permanente de Conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et Leur impartir un délai pour se prononcer.

A la fin de ces travaux, la Commission dressera un procès-verbal constatant, suivant le cas, soit que les Parties se sont arrangées, et s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la Commission devront, à moins que les Parties en conviennent différemment, être terminés dans le délai de six mois à compter du jour où la Commission aura été saisie du litige.

ART. 10. A moins de stipulation spéciale contraire du présent Traité, la Commission permanente de Conciliation réglera elle-même sa procédure qui, dans tous les cas, devra être contradictoire. En matière

informed of the dispute, either Party may, for the examination of such dispute, replace one of the members whom it has appointed by a person possessing special competence in the matter, subject, however, to compliance with the rules laid down in paragraph 1 of Article 5.

The Party making use of this right shall immediately inform the other Party. The latter shall in that case be entitled to take similar action within fifteen days from the date on which it shall have received notification.

ART. 9. The task of the Permanent Conciliation Commission shall be to elucidate questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of settlement which seem suitable to it and lay down a period within which they are to make their decision.

At the close of these proceedings the Commission shall draw up a report stating, as the case may be, either that the Parties have come to an agreement and, if need be, the terms of the agreement, or that it has been impossible to effect a settlement.

The proceedings of the Commission must, unless the Parties otherwise agree, be terminated within six months from the date on which the Commission was notified of the dispute.

ART. 10. Failing any special provision to the contrary in the present Treaty, the Permanent Conciliation Commission shall lay down its own procedure, which in any case must provide for both

d'enquêtes, la Commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du Titre III (Des Commissions internationales d'enquête) de la Convention de La Haye du 18 Octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 11. La Commission permanente de Conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son Président.

ART. 12. Les travaux de la Commission permanente de Conciliation ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties.

ART. 13. Les Parties seront représentées auprès de la Commission permanente de Conciliation par des agents ayant mission de servir d'intermédiaire entre elles et la Commission; elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraît utile.

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement.

ART. 14. Sauf disposition contraire du présent Traité, les décisions de la Commission permanente de Conciliation seront prises à la majorité des voix.

ART. 15. Les Hautes Parties Contractantes s'engagent à faciliter les travaux de la Commission per-

Parties being heard. In regard to enquiries, the Commission, unless it unanimously decides otherwise, shall act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 11. The Permanent Conciliation Commission shall meet, in the absence of agreement by the Parties to the contrary, at a place selected by its President.

ART. 12. The proceedings of the Permanent Conciliation Commission shall not be public except when a decision to that effect has been taken by the Commission with the consent of the Parties.

ART. 13. The Parties shall be represented before the Permanent Conciliation Commission by agents, whose duty it shall be to act as intermediaries between the Parties and the Commission. They may, moreover, be assisted by counsel and experts appointed by them for that purpose, and they may request that all persons whose evidence appears to them useful should be heard.

The Commission, on its side, shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties, as well as from all persons it may think useful to summon with the consent of their Government.

ART. 14. Unless otherwise provided in the present Treaty, the decisions of the Permanent Conciliation Commission shall be taken by a majority.

ART. 15. The High Contracting Parties undertake to facilitate the work of the Permanent Concili-



manente de Conciliation et, en particulier, à lui fournir dans la plus large mesure possible tous documents et informations utiles, ainsi qu'à user des moyens dont elles disposent pour leur permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux

ART 16 Pendant la durée des travaux de la Commission permanente de Conciliation, chacun des Commissaires recevra une indemnité dont le montant sera arrêté d'un commun accord, entre les Hautes Parties Contractantes qui en supporteront chacune une part égale. Les frais auxquels donnerait lieu le fonctionnement de la Commission seront également partagés par moitié

ART 17 A défaut de conciliation devant la Commission permanente de Conciliation, la contestation sera soumise d'un commun accord par voie de compromis, soit à la Cour permanente de Justice internationale, dans les conditions et suivant la procédure prévues par son statut, soit à un Tribunal arbitral, dans les conditions et suivant la procédure prévues par la Convention de La Haye du 18 Octobre 1907 pour le règlement pacifique des conflits internationaux

A défaut d'accord entre les Parties sur le compromis et après un préavis d'un mois, l'une ou l'autre d'entre elles aura la faculté de porter directement par voie de requête la contestation devant la Cour permanente de Justice internationale

#### DISPOSITIONS GÉNÉRALES

ART 18 Dans tous les cas et notamment si la question au sujet

ation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to enable it to proceed in their territory and in accordance with their laws, to the summoning and hearing of witnesses or experts, and to visit the localities in question

ART 16 During the proceedings of the Permanent Conciliation Commission each commissioner shall receive emoluments the amount of which shall be fixed by agreement between the High Contracting Parties each of whom shall contribute an equal share. The costs connected with the work of the Commission shall also be equally shared

ART 17 In the event of no amicable agreement being reached before the Permanent Conciliation Commission the dispute shall be submitted by means of a special agreement either to the Permanent Court of International Justice under the conditions and according to the procedure laid down by its Statute or to an arbitral tribunal under the conditions and according to the procedure laid down by the Hague Convention of October 18 1907, for the Pacific Settlement of International Disputes

If the Parties cannot agree on the terms of the special agreement after a month's notice one or other of them may bring the dispute direct before the Permanent Court of International Justice by means of an application

#### GENERAL PROVISIONS

ART 18 In any case, and particularly if the question on which

de laquelle les Parties sont divisées résulte d'actes déjà effectués ou sur le point de l'être, la Commission de Conciliation ou, si celle-ci ne s'en trouvait plus saisie, le Tribunal arbitral ou la Cour permanente de Justice internationale statuant conformément à l'article 41 de son statut, indiqueront, s'il y a lieu et dans le plus bref délai possible, quelles mesures provisoires doivent être prises. Chacune des Hautes Parties Contractantes s'engage à s'y conformer, à s'abstenir de toute mesure susceptible d'avoir une répercussion préjudiciable à l'exécution de la décision ou aux arrangements proposés par la Commission de Conciliation, et en général à ne procéder à aucun acte, de quelque nature qu'il soit, susceptible d'aggraver ou d'étendre le différend.

ART. 19. La sentence judiciaire ou arbitrale est obligatoire et doit être exécutée de bonne foi par les Parties.

Si toutefois la sentence judiciaire ou arbitrale déclarait qu'une décision ou une mesure prise par une instance judiciaire ou toute autre autorité de l'un des deux Etats se trouve entièrement ou partiellement en opposition avec le droit international, et si le droit constitutionnel du dit Etat ne permet pas ou ne permet qu'en partie d'effacer les conséquences de cette décision ou de cette mesure, les Parties conviennent qu'il devra être accordé à la Partie lésée par la sentence judiciaire ou arbitrale une satisfaction équitable d'un autre ordre.

ART. 20. Le présent Traité reste applicable entre les Hautes Parties Contractantes encore que d'autres Puissances aient également un intérêt dans le différend.

ART. 21. Le présent Traité sera communiqué pour enregistrement

the Parties differ arises out of acts already committed or on the point of commission, the Permanent Conciliation Commission, or if the latter is no longer competent, the arbitral tribunal or the Permanent Court of International Justice acting in accordance with Article 41 of its Statute, shall if necessary lay down within the shortest possible time the provisional measures to be adopted. The High Contracting Parties undertake respectively to accept such measures, to abstain from all measures likely to have a repercussion prejudicial to the execution of the decision or to the arrangements proposed by the Conciliation Commission, and in general to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

ART. 19. The judicial decision or arbitration award shall be binding and must be carried out in good faith by the Parties.

If, however, the judicial decision or arbitration award states that a decision or measure of a court of law or other authority of either of the two States is wholly or partly at variance with international law, and if the constitutional law of the said State does not permit, or only partially permits, the consequences of the decision or measure in question to be annulled, the Parties agree that the judicial decision or arbitration award shall give the injured Party equitable satisfaction of another kind.

ART. 20. The present Treaty shall continue to be applicable as between the High Contracting Parties even when other Powers are also interested in the dispute.

ART. 21. The present Treaty shall be communicated for regis-

à la Société des Nations conformément à l'article 18 du Pacte

ART 22 Le présent Traité sera ratifié Les ratifications en seront échangées à Copenhague

Il entrera en vigueur dès l'échange des ratifications Il aura une durée de dix ans à compter de son entrée en vigueur S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il sera considéré comme renouvelé pour une période de cinq années et ainsi de suite

Si, lors de l'expiration du présent Traité une procédure quelconque en vertu de ce Traité se trouvait pendante devant la Commission permanente de Conciliation, devant un Tribunal d'arbitrage ou devant la Cour permanente de Justice internationale cette procédure serait poursuivie jusqu'à son achèvement

En foi de quoi, les Plénipotentiaires susnommés ont signé le présent Traité

Fait à Praha, en double exemplaire, le 30 Novembre 1926

L N Høst  
Dr V Girsu

tration to the League of Nations in accordance with Article 18 of the Covenant

ART 22 The present Treaty shall be ratified and the ratifications shall be exchanged at Copenhagen

It shall come into force as soon as the instruments of ratification have been exchanged and shall remain in force for ten years from that date

Unless it is denounced six months before the expiration of this period, it shall be regarded as renewed for a period of five years, and it shall similarly be renewable thereafter for successive periods of five years

If, upon the expiration of the present Treaty, any procedure in virtue of this Treaty is pending before the Permanent Conciliation Commission, an arbitration Court, or the Permanent Court of International Justice, it shall pursue its course until its final completion

In faith whereof, the above-mentioned Plenipotentiaries have signed the present Treaty

Done at Prague, in two copies, November 30, 1926

L N Høst  
Dr V Girsu

#### PERMANENT COMMISSION OF CONCILIATION

(Appointed June 8, 1928)

*President appointed by both Parties*

JONKHUIJER BILHARTS VAN BLOKLAND, Minister for Foreign Affairs of the Netherlands (*Dutch*)

*Members appointed by Czechoslovakia*

JAN DVORACEK, former Minister, Director of the Bank Zivnostenska at Prague (*Czechoslovakian*)

M. NINCIC, former Minister for Foreign Affairs of the Kingdom of the Serbs, Croats, and Slovenes (*Yugoslavian*)

*Members appointed by Denmark*

COUNT C. MOLTKE, former Minister for Foreign Affairs of Denmark (*Danish*)

THORWALD HOJER, Swedish Minister to Norway (*Swedish*)

## No. 74

DENMARK-LITHUANIA: TREATY OF CONCILIATION,  
ARBITRATION, AND COMPULSORY  
ADJUDICATION

Signed at Kaunas (Kovno) December 11, 1926; ratifications exchanged October 12, 1927.

Original text communicated by the Danish Legation at Washington, D. C.; <sup>1</sup> English translation from League of Nations, *Treaty Series*, LXVII, 335-343.

(Translation)

Sa Majesté le Roi de Danemark et d'Islande et le Président de la République de Lithuanie

S'inspirant des heureuses relations d'amitié qui unissent le Danemark et la Lithuanie,

Désireux de convenir des dispositions permettant d'assurer dorénavant, conformément aux principes consacrés par le Pacte de la Société des Nations, le règlement pacifique de tous les différends et conflits, de quelque nature qu'ils soient, qui viendraient à diviser le Danemark et la Lithuanie,

Ont résolu de conclure un Traité à cet effet et ont nommé pour leurs Plénipotentiaires respectifs, savoir:

Sa Majesté le Roi de Danemark et d'Islande:

Monsieur Erik Andreas Mathias Biering, Son Chargé d'Affaires à Kaunas;

Le Président de la République de Lithuanie:

Monsieur Mykolas Sleževičius, Président du Conseil et Ministre de la Justice exerçant les fonctions de Ministre des Affaires Étrangères de la République de Lithuanie;

Lesquels, après s'être fait connaître leurs pleins-pouvoirs, reconnus en bonne et due forme, ont convenu des dispositions suivantes:

His Majesty the King of Denmark and Iceland and the President of the Republic of Lithuania,

Being desirous of developing the friendly relations which unite Denmark and Lithuania,

Being desirous of agreeing upon a procedure which shall henceforth assure, in conformity with the principles laid down in the Covenant of the League of Nations, the pacific settlement of all disputes and conflicts of whatever nature, which may arise between Denmark and Lithuania,

Have resolved to conclude a Treaty for this purpose and have appointed as their Plenipotentiaries:

His Majesty the King of Denmark and Iceland:

M. Erik Andreas Mathias Biering, His Chargé d'Affaires at Kovno;

The President of the Republic of Lithuania:

M. Mykolas Sleževičius, President of the Council and Minister of Justice, Acting Minister for Foreign Affairs of the Republic of Lithuania,

Who, having exchanged their full powers, found in good and due form, have agreed upon the following Articles:

<sup>1</sup> See also League of Nations, *Treaty Series*, LXVII, 334.

ARTICLE 1<sup>er</sup>. Les Parties Contractantes s'engagent réciproquement à régler, dans tous les cas, par voie pacifique et d'après les méthodes prévues par le présent Traité, tous les litiges ou conflits de quelque nature qu'ils soient, qui viendraient à s'élever entre le Danemark et la Lithuanie, et qui n'auraient pu être résolus par les procédés diplomatiques ordinaires.

ART. 2. Toutes contestations entre les Parties Contractantes de quelque nature qu'elles soient, et qui n'auraient pu être réglées à l'amiable par les procédés diplomatiques ordinaires seront soumises pour jugement soit à un tribunal arbitral soit à la Cour Permanente de Justice Internationale ainsi qu'il est prévu ci-après.

Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres conventions en vigueur entre les Parties Contractantes seront réglées conformément aux dispositions de ces conventions.

ART. 3. Avant toute procédure arbitrale ou avant toute procédure devant la Cour Permanente de Justice Internationale, la contestation sera soumise à fin de conciliation à une Commission Internationale permanente, dite *Commission Permanente de Conciliation* constituée conformément au présent traité.

ART. 4. S'il s'agit d'une contestation dont l'objet, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux de celle-ci, le différend ne sera soumis à la procédure prévue par le présent traité qu'après jugement passé en force de chose jugée et rendue dans des délais raisonnables, par l'autorité judiciaire nationale compétente.

ARTICLE 1. The Contracting Parties reciprocally undertake in every case to settle by pacific means and in accordance with the procedure laid down in the present Treaty, all disputes or conflicts of whatever nature, which may arise between Denmark and Lithuania, and which it may not have been possible to settle by the normal methods of diplomacy.

ART. 2. All disputes of every kind between the Contracting Parties which it may not have been possible to settle amicably by the normal methods of diplomacy, shall be submitted for decision either to an arbitral tribunal or to the Permanent Court of International Justice, as hereinafter laid down.

Disputes for the settlement of which a special procedure is laid down in other conventions in force between the Contracting Parties shall be settled in conformity with the provisions of those conventions.

ART. 3. Before any resort is made to arbitral procedure or to procedure before the Permanent Court of International Justice, the dispute shall be submitted, with a view to amicable settlement, to a permanent international commission styled the *Permanent Conciliation Commission*, constituted in accordance with the present Treaty.

ART. 4. In the case of a dispute the occasion of which, according to the municipal law of one of the Parties, falls within the competence of the national courts of such Party, the matter in dispute shall not be submitted to the procedure laid down in the present Treaty until a judgment with final effect has been pronounced, within a reasonable time, by the competent national judicial authority.

**ART 5** La Commission Permanente de Conciliation prévue à l'article 3 sera composée de cinq membres, qui seront désignées comme il suit, savoir: les Parties Contractantes nommeront chacune deux membres, dont l'un peut être choisi parmi ses propres nationaux. Le cinquième membre, désigné d'un commun accord, remplit les fonctions de Président et doit appartenir à une autre nationalité qu'à celles des autres membres de la Commission. Ce dernier ne devra avoir son domicile sur le territoire des Parties Contractantes, ni se trouver à leur service.

Les Commissaires sont nommés pour trois ans. Leur mandat est renouvelable. Ils restent en fonctions jusqu'à leur remplacement, et dans tous les cas jusqu'à l'achèvement de leurs travaux en cours au moment de l'expiration de leur mandat.

Il sera pourvu dans le plus bref délai, aux vacances qui viendraient à se produire par suite de décès, de démission ou de quelque autre empêchement en suivant le mode fixé pour les nominations.

**ART 6** La Commission Permanente de Conciliation sera constituée dans les trois mois qui suivront l'entrée en vigueur de la présente convention.

Si la nomination du Commissaire à désigner en commun n'intervenait pas dans le délai ou en cas de remplacement dans les trois mois à compter de la vacance du siège, le Président de la Cour Permanente de Justice Internationale ou si celui-ci est ressortissant d'un des États Contractants le Vice-Président de la Cour sera, à défaut d'autre entente, prié de procéder aux désignations nécessaires.

**ART 5** The Permanent Conciliation Commission mentioned in Article 3 shall be composed of five members, who shall be appointed as follows: the Contracting Parties shall each nominate two members, one of whom may be chosen from among its own nationals. The fifth member, appointed by common agreement, shall act as president and must be of different nationality from that of the other members of the Commission. He must not reside within the territory of the Contracting Parties nor be in their service.

The commissioners are appointed for three years and their mandate is renewable. Their appointment shall continue until their replacement, and in any case until the termination of the work in hand at the moment of the expiry of their mandate.

Vacancies which may occur as a result of death, resignation or any other cause shall be filled within the shortest possible time in the manner laid down for the nominations.

**ART 6** The Permanent Conciliation Commission shall be constituted within three months from the entry into force of the present Convention.

If the nomination of the commissioner to be appointed by common agreement should not have taken place within the said period or, in the case of the filling of a vacancy, within three months from the time when the seat falls vacant, the President of the Permanent Court of International Justice or, if the latter is a national of one of the Contracting States, the Vice-President of the Court shall in the absence of other agreement, be requested to make the necessary appointment.

**ART 7** La Commission Permanente de Conciliation sera saisie par voie de requête adressée au Président par les deux Parties agissant d'un commun accord ou, à défaut, par l'une ou l'autre des Parties

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation

Si la requête émane d'une seule des Parties elle sera notifiée par celle-ci sans délai à la Partie adverse

**ART 8** Dans un délai de 15 jours à partir de la date où l'une des Parties Contractantes aurait porté une contestation devant la Commission Permanente de Conciliation, chacune des Parties pourra, pour l'examen de cette contestation, remplacer l'un des membres désignés par elle par une personne possédant une compétence spéciale dans la matière sous réserve, toutefois, de la règle stipulée à l'article 5 premier alinéa concernant la nationalité des membres de la Commission

La Partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie celle-ci aura, dans ce cas la faculté d'agir de même dans un délai de 15 jours à partir de la date où la notification lui sera parvenue

**ART 9** La Commission Permanente de Conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties Elle pourra, après examen de l'affaire exposer aux Parties les termes de l'arrangement qui lui paraîtrait

**ART 7** The Permanent Conciliation Commission shall be informed by means of a request addressed to the President by the two Parties acting in agreement or, in the absence of such agreement, by one or other of the Parties

The request, after having given a summary account of the subject of the dispute, shall contain an invitation to the Commission to take all necessary measures with a view to arriving at an amicable settlement

If the request emanates from only one of the Parties, notification thereof shall be made without delay to the other Party

**ART 8** Within fifteen days from the date on which one of the Contracting Parties shall have brought a dispute before the Permanent Conciliation Commission either Party may for the examination of the particular dispute replace one of the members whom it has appointed by a person possessing special competence in the matter, subject however to the rules laid down in paragraph 1 of Article 5, concerning the nationality of the members of the Commission

The Party making use of this right shall immediately inform the other Party The latter shall in that case be entitled to take similar action within fifteen days from the date on which it shall have received notification

**ART 9** The task of the Permanent Conciliation Commission shall be to elucidate questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the Parties to an agreement It may, after the case has been examined, inform the Parties of the terms of settlement

convenable et leur impartir un délai pour se prononcer

A la fin de ses travaux, la Commission dressera un proces verbal constatant, suivant le cas, soit que les Parties se sont arrangées, et s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées

Les travaux de la Commission devront, a moins que les Parties en conviennent différemment être terminés dans le délai de six mois a compter du jour ou la Commission aura été saisie du litige

ART 10 A moins de stipulation spéciale contraire la Commission Permanente de Conciliation réglera elle même sa procédure qui dans tous les cas devra être contradictoire. En matière d'enquêtes la Commission si elle n'en décide autrement a l'unanimité se conformera aux dispositions du Titre III (Commission internationale d'enquête) de la Convention de la Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux

ART 11 La Commission Permanente de Conciliation se réunira sauf accord contraire entre les Parties au lieu désigné par son Président

ART 12 Les travaux de la Commission Permanente de Conciliation ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties

ART 13 Les Parties seront représentées auprès de la Commission Permanente de Conciliation par des agents ayant mission de servir d'intermédiaire entre elles et la Commission elles pourront en outre, se faire assister par des con-

which seem suitable to it and lay down a period within which they are to make their decision

At the close of its proceedings, the Commission shall draw up a report stating, as the case may be, either that the Parties have come to an arrangement and if need be, the terms of the agreement or that it has been impossible to effect a settlement

The proceedings of the Commission must, unless the Parties otherwise agree, be terminated within six months from the day on which the Commission has first been notified of the dispute

ART 10 Failing any special provision to the contrary the Permanent Conciliation Commission shall lay down its own procedure which in any case must provide for both Parties being heard. In regard to enquiries the Commission unless it unanimously decides otherwise, shall act in accordance with the provisions of Chapter 3 (International Commissions of Enquiry) of the Hague Convention of October 18 1907 for the Pacific Settlement of International Disputes

ART 11 The Permanent Conciliation Commission shall meet, in the absence of agreement by the Parties to the contrary at a place selected by its President

ART 12 The proceedings of the Permanent Conciliation Commission shall not be public except when a contrary decision has been taken by the Commission with the consent of the Parties

ART 13 The Parties shall be represented before the Permanent Conciliation Commission by agents whose duty it shall be to act as intermediaries between them and the Commission. They may, moreover, be assisted by counsel and experts



seils et experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraît utile

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement

ART 14 Sauf disposition contraire du présent Traité, les décisions de la Commission Permanente de Conciliation seront prises à la majorité des voix

ART 15 Les Parties Contractantes s'engagent à faciliter les travaux de la Commission Permanente de Conciliation et, en particulier, à lui fournir dans la plus large mesure possible tous documents et informations utiles, ainsi qu'à user des moyens dont elles disposent pour lui permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux

ART 16 Pendant la durée des travaux de la Commission Permanente de Conciliation chacun de ses membres recevra une indemnité dont le montant sera arrêté d'un commun accord, entre les Parties Contractantes qui en supporteront chacune une part égale. Les frais auxquels donnerait lieu le fonctionnement de la Commission, seront également partagés par moitié

ART 17 A défaut de conciliation devant la Commission Permanente de Conciliation, la contestation sera soumise d'un commun accord par voie de compromis soit à la Cour Permanente de Justice Internationale dans les con-

appointed by them for that purpose, and they may request that all persons whose evidence appears to them useful should be heard

The Commission on its side shall be entitled to request oral explanations from the agents counsel and experts of the two Parties, as well as from all persons it may think useful to summon with the consent of their respective Governments

ART 14 Unless otherwise provided in the present Treaty, the decisions of the Permanent Conciliation Commission shall be taken by a majority vote

ART 15 The Contracting Parties undertake to facilitate the labours of the Permanent Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information as well as to use the means at their disposal to enable it to proceed in their territory and in accordance with their laws to the summoning and hearing of witnesses or experts, and to visit the localities in question

ART 16 During the proceedings of the Permanent Conciliation Commission, each commissioner shall receive emoluments the amount of which shall be fixed by agreement between the Contracting Parties each of which shall contribute an equal share. The costs occasioned by the Commission shall also be equally shared

ART 17 In the event of no amicable agreement being reached before the Permanent Conciliation Commission, the dispute shall be submitted by means of a special agreement either to the Permanent Court of International Justice un-

ditions et suivant la procédure prévues par son statut, soit à un tribunal arbitral dans les conditions et suivant la procédure prévues par le compromis.

A défaut d'accord entre les Parties sur le compromis et après un préavis d'un mois, l'une ou l'autre d'entre elles aura la faculté de porter directement par voie de requête la contestation devant la Cour Permanente de Justice Internationale.

#### DISPOSITION GÉNÉRALE

ART. 18. Dans tous les cas et notamment si la question au sujet de laquelle les Parties sont divisées résulte d'actes déjà effectués ou sur le point de l'être, la Commission Permanente de Conciliation ou, si celle-ci ne s'en trouvait plus saisie, le Tribunal arbitral ou la Cour Permanente de Justice Internationale statuant conformément à l'article 41 de son statut, indiqueront s'il a lieu et dans le plus bref délai possible, quelles mesures provisoires doivent être prises. Chacune des Parties Contractantes s'engage à s'y conformer, à s'abstenir de toute mesure susceptible d'avoir une répercussion préjudiciable à l'exécution de la décision ou aux arrangements proposés par la Commission de Conciliation, et en général à ne procéder à aucun acte de quelque nature qu'il soit susceptible d'aggraver ou d'étendre le différend.

ART. 19. Le présent Traité reste applicable entre les Parties Contractantes encore que d'autres Puissances aient également un intérêt dans le différend.

ART. 20. Le présent Traité sera communiqué pour enregistrement à la Société des Nations conformément à l'article 18 du Pacte.

der the conditions and according to the procedure laid down by its Statute, or to an arbitral tribunal under the conditions and according to the procedure laid down in the aforesaid special agreement.

If the Parties cannot agree on the terms of the special agreement after a month's notice, one or other of them may bring the dispute direct before the Permanent Court of International Justice by means of an application.

#### GENERAL PROVISIONS

ART. 18. In any case, and particularly if the question on which the Parties differ arises out of acts already committed or on the point of being committed, the Permanent Conciliation Commission or, if the matter has ceased to be within its jurisdiction, the arbitral tribunal or the Permanent Court of International Justice acting in accordance with Article 41 of its Statute, shall lay down, if necessary, within the shortest possible time, the provisional measures to be adopted. The Contracting Parties undertake respectively to accept such measures, to abstain from all measures likely to have a repercussion prejudicial to the execution of the decision or to the arrangements proposed by the Conciliation Commission, and in general to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

ART. 19. The present Treaty shall continue to be applicable as between the Contracting Parties, even when other Powers are also interested in the dispute.

ART. 20. The present Treaty shall be communicated for registration to the League of Nations, in accordance with Article 18 of the Covenant.

ART. 21. Le présent Traité sera ratifié. Les ratifications en seront échangées aussitôt que possible.

Il entrera en vigueur dès l'échange des ratifications et aura une durée de dix ans à compter de son entrée en vigueur. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il sera considéré comme renouvelé pour une période de cinq années et ainsi de suite.

Si, lors de l'expiration du présent Traité, une procédure quelconque en vertu de ce traité se trouvait pendante devant la Commission Permanente de Conciliation, devant un tribunal d'arbitrage ou devant la Cour permanente de Justice Internationale, cette procédure serait poursuivie jusqu'à son achèvement.

En foi de quoi, les Plénipotentiaires susnommés ont signé le présent Traité et y ont apposé leurs cachets.

Fait à Kaunas, en double exemplaire, le 11 décembre 1926.

E. Biering  
Mykolas Sleževičius

ART. 21. The present Treaty shall be ratified and the ratifications shall be exchanged as soon as possible.

It shall come into force as soon as the instruments of ratification have been exchanged, and shall remain in force for ten years from that date. Unless denounced six months before the expiration of this period, it shall be regarded as renewed for a period of five years and so on for successive periods of five years.

If, at the time of the expiration of the present Treaty, any procedure provided for thereunder is pending before the Permanent Conciliation Commission, an arbitral tribunal or the Permanent Court of International Justice, it shall pursue its course until its final completion.

In faith whereof the above-named Plenipotentiaries have signed the present Treaty and thereto affixed their seals.

Done in duplicate at Kovno, December 11, 1926.

E. Biering  
Mykolas Sleževičius

#### PERMANENT COMMISSION OF CONCILIATION

(Appointed March 10, 1928)

##### *President appointed by both Parties*

E. BENFŠ, Minister for Foreign Affairs of Czechoslovakia. (*Czechoslovakian.*)

##### *Members appointed by Denmark*

A. DE OLDENBURG, Danish Minister to Norway. (*Danish.*)

VISCOUNT J. DE FONTENAY, French Minister to the Holy See. (*French.*)

##### *Members appointed by Lithuania*

D. ZAUNIUS, Lithuanian Minister to Czechoslovakia. (*Lithuanian.*)

CHRISTIAN LANGE, Secretary General of the Interparliamentary Union. (*Norwegian.*)

## No. 75

## DENMARK-ESTONIA: TREATY OF CONCILIATION

Signed at Tallinn (Reval) December 18, 1926; ratifications exchanged July 7, 1927.

Original text communicated by the Danish Legation at Washington, D. C.;<sup>1</sup> English translation from League of Nations, *Treaty Series*, LXIII, 365-371.

(Translation)

Sa Majesté le Roi de Danemark et d'Islande et le Gouvernement de la République d'Estonie,

animés du désir de favoriser le développement de la procédure de conciliation des différends internationaux dans un esprit conforme au Pacte de la Société des Nations, décidés à réaliser, dans les rapports entre le Danemark et l'Estonie, les principes de la résolution de l'Assemblée de la Société des Nations en date du 22 Septembre 1922, tendant à l'institution de commissions de conciliation par voie de conventions entre les Etats, ont résolu de conclure à cet effet une Convention et ont nommé Leurs plénipotentiaires, savoir:

Sa Majesté le Roi de Danemark et d'Islande:

Monsieur Flemming Emil Harald Albrecht de Lerche, Son Envoyé Extraordinaire et Ministre Plénipotentiaire à Tallinn,

Le Gouvernement de la République d'Estonie:

Monsieur Friedrich Akel, Ministre des Affaires Etrangères,

Lesquels, dûment autorisés à cet effet, sont convenus des articles suivants:

ARTICLE 1. Le Danemark et l'Estonie s'engagent à soumettre, aux fins d'enquête et de conciliation, à une Commission permanente,

The Government of the Republic of Estonia and His Majesty the King of Denmark and Iceland,

Being desirous of promoting the development of conciliation procedure in international disputes in accordance with the spirit of the Covenant of the League of Nations,

And having determined to apply in the relations between Estonia and Denmark the principles of the resolution concerning the establishment of conciliation commissions by inter-State conventions, which was adopted by the Assembly of the League of Nations on September 22, 1922, have for this purpose resolved to conclude a convention and have appointed as their Plenipotentiaries:

The Government of the Republic of Estonia:

M. Friederich Akel, Minister for Foreign Affairs;

His Majesty the King of Denmark and Iceland:

M. Flemming Emil Harald Albrecht de Lerche, Envoy Extraordinary and Minister Plenipotentiary at Tallinn,

Who, being duly authorised for the purpose, have agreed upon the following Articles:

ARTICLE 1. Estonia and Denmark undertake to refer to a permanent Commission, appointed in the manner set forth below, for in-

<sup>1</sup> See also League of Nations, *Treaty Series*, LXIII, 364.

constituée dans les conditions prévues ci-dessous, tous différends, de quelque nature qu'ils soient, qui n'auraient pu être résolus par la voie diplomatique dans un délai raisonnable et qui ne doivent pas être déferés, aux termes, soit du Statut de la Cour Permanente de Justice Internationale, soit de tout autre accord conclu entre Elles, à la dite Cour ou à un tribunal d'arbitrage.

ART. 2. Si un différend, dont l'une des Parties a saisi la Commission, est porté par l'autre Partie, conformément aux dispositions visées à l'article 1<sup>er</sup>, devant la Cour Permanente ou un tribunal d'arbitrage, la Commission suspendra l'examen du différend jusqu'à ce que la Cour ou le tribunal ait statué sur la compétence.

ART. 3. S'il s'agit d'un différend qui, à teneur de la législation interne de l'une des Hautes Parties Contractantes, relève de la compétence des tribunaux, les tribunaux administratifs y compris, la Partie défenderesse pourra s'opposer à ce qu'il soit soumis à une procédure d'enquête ou de conciliation avant qu'un jugement définitif ait été rendu par l'autorité judiciaire compétente.

ART. 4. La Commission se compose de cinq membres. Chaque Etat en désigne deux, dont l'un peut être choisi parmi ses propres nationaux. Le cinquième, qui remplit les fonctions de Président, doit appartenir à une nationalité qu'à celles des autres membres de la Commission. Le Président est désigné d'un commun accord par les Parties. Au cas où cet accord ne pourrait s'établir, sa nomination sera effectuée, à la requête de l'une des Parties, par le Président de la

vestigation and settlement by conciliation, all disputes of every kind which it may not have been possible to settle within a reasonable time by diplomacy and which, under the Statute of the Permanent Court of International Justice or any other agreement between the Parties, should not be submitted either to the Permanent Court or to a court of arbitration.

ART. 2. If a dispute which has been referred to the Commission by one of the Parties is brought before the Permanent Court or a court of arbitration by the other Party under the terms of Article 1, the Commission shall postpone its investigation of the dispute until the Permanent Court or the court of arbitration shall have determined the question of competence.

ART. 3. In the case of a dispute which, according to the municipal law of one of the Parties, falls within the competence of the courts (which term includes the administrative courts), the defendant Party may object to any proceedings of enquiry or conciliation being instituted until final judgment has been pronounced by the competent judicial authority.

ART. 4. The Commission shall consist of five members. Each Party shall appoint two members, one of whom may be chosen from among its nationals. The fifth member, who shall act as president of the Commission, must possess a nationality differing from that of any other member of the Commission. He shall be appointed by common agreement between the Parties. Should the Parties be unable to agree, the President shall, at the request of one of the Parties,

Cour Permanente de Justice Internationale ou, si celui-ci est ressortissant d'un des Etats contractants, par le Vice-Président de la Cour.

La Commission devra être constituée dans les six mois qui suivront l'échange des ratifications de la présente Convention.

ART. 5. Les membres de la Commission sont nommés pour trois ans. Sauf accord contraire entre les Parties, ils ne pourront pas être révoqués pendant la durée de leur mandat. En cas de décès ou de retraite de l'un d'eux il devra être pourvu à son remplacement pour le reste de la durée de son mandat, si possible dans les deux mois qui suivront et, en tout cas, aussitôt qu'un différend aura été soumis à la Commission.

ART. 6. Dans un délai de quinze jours, à dater de celui où l'un des Etats contractants aura porté un différend devant la Commission, chacune des Parties pourra, pour l'examen du litige visé, remplacer l'un des membres désignés par Elle par une personne possédant une compétence spéciale dans la matière, sous réserve, toutefois, de la règle stipulée à l'article 4 concernant la nationalité des membres de la Commission.

La Partie qui voudrait user de ce droit, en avertira immédiatement la Partie adverse; dans ce cas, celle-ci a la faculté d'user du même droit, dans un délai de quinze jours à partir de celui où l'avertissement Lui est parvenu.

ART. 7. Si, à l'expiration du mandat d'un membre, il n'est pas pourvu à son remplacement, son mandat est censé renouvelé pour une période de trois ans; toutefois, sur la demande de l'une des Par-

be appointed by the President of the Permanent Court of International Justice or, if the latter should be a national of one of the Contracting States, by the Vice-President of the Court.

The Commission shall be constituted within six months after the ratifications of the present Convention have been exchanged.

ART. 5. The Members of the Commission shall be appointed for three years. They shall be irremovable during their period of office unless the Parties agree otherwise. In the event of the death or retirement of a member, the vacancy must be filled for the remainder of his term of office, within the next two months if possible, but, in any case, as soon as a dispute is referred to the Commission.

ART. 6. Within fifteen days from the date when one of the Contracting Parties shall have brought a dispute before the Commission, either Party may, for the examination of the particular dispute, replace one of the members it has appointed by a person possessing special competence in the matter, subject, however, to the rules laid down in Article 4 with regard to the nationality of the members.

The Party desiring to make use of this right shall immediately inform the other Party; the latter shall in that case be entitled to take similar action within fifteen days from the date when the notification reaches it.

ART. 7. If on the completion of his term of office a member of the Commission has not been replaced, his appointment shall be deemed to have been renewed for three years; the President shall, however,

ties, les fonctions du Président doivent cesser à la fin de son mandat.

Un membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part à l'examen du différend jusqu'à ce que la procédure soit terminée, nonobstant le fait que son remplaçant ait été désigné.

ART. 8. Les différends sont portés devant la Commission par la notification qui en est faite par l'une des Parties au Président de la Commission. Cette notification doit convoquer la Commission dans le plus bref délai.

La Partie ayant saisi la Commission du différend en avisera le Secrétaire général de la Société des Nations.

ART. 9. La Commission se réunit dans l'endroit que les Parties désignent d'un commun accord ou, à défaut d'accord, au Siège de la Société des Nations.

ART. 10. Les Parties s'engagent à fournir à la Commission toutes les informations utiles et à lui faciliter, à tous égards, l'accomplissement de sa tâche.

La Commission pourra demander au Secrétaire général de la Société des Nations l'assistance du Secrétariat, si la Commission en a besoin pour ses travaux.

ART. 11. Les Parties ont le droit de nommer des agents spéciaux auprès de la Commission qui devront en même temps servir d'intermédiaires entre Elles et la Commission.

ART. 12. Les débats devant la Commission ne sont publics que si la Commission, d'accord avec les Parties, en décide ainsi.

at the request of one of the Parties, cease to hold office at the end of his appointed term.

A member whose term of office expires whilst proceedings are in progress shall remain in office, even if his successor has been appointed, until the close of the proceedings.

ART. 8. Disputes shall be referred to the Commission by means of a notification addressed to the President of the Commission by one of the Parties. The other Party shall be informed at once of such notification. The President shall convene the Commission as soon as possible.

The Party which has submitted the dispute to the Commission shall notify the Secretary-General of the League of Nations.

ART. 9. The Commission shall meet at a place mutually agreed upon by the Parties or, failing such agreement, at the seat of the League of Nations.

ART. 10. The Parties undertake to supply the Commission with all relevant information and to facilitate its labours in every way.

The Commission may apply to the Secretary-General of the League of Nations for the assistance of the Secretariat if the Commission requires such assistance in its work.

ART. 11. The Parties shall be entitled to attach to the Commission special representatives, who shall at the same time act as intermediaries between them and the Commission.

ART. 12. Proceedings before the Commission shall not be public, unless the Commission so decides and the Parties agree.

ART. 13. La procédure devant la Commission est contradictoire.

La Commission réglera elle-même la procédure, en tenant compte, à défaut d'une décision contraire prise à l'unanimité des dispositions contenues au titre III de la Convention de la Haye pour le règlement pacifique des conflits internationaux, du 18 octobre 1907.

ART. 14. Sous réserve des dispositions contraires de la présente Convention, les décisions de la Commission sont prises à la majorité simple. Chaque membre dispose d'une voix, celle du Président étant décisive en cas de partage. La Commission peut délibérer valablement, si tous les membres ont été dûment convoqués et si le Président et au moins deux autres membres sont présents.

ART. 15. La Commission fera un rapport sur chaque différend qui lui a été soumis. Le rapport comportera un projet de règlement du différend, si les circonstances y donnent lieu et si trois au moins des membres de la Commission se mettent d'accord sur un tel projet.

L'avis motivé des membres restés en minorité sera consigné dans le rapport.

ART. 16. Sous réserve du droit des Parties de prolonger ce délai, la Commission doit achever ses travaux dans un délai de six mois, à dater du jour où le différend a été porté devant la Commission.

Le temps durant lequel les travaux de la Commission sont suspendus selon les dispositions de l'article 2 n'est pas compris dans le délai susmentionné.

ART. 13. In proceedings before the Commission both Parties shall be heard.

The Commission shall lay down its own procedure and shall, unless it decides unanimously to the contrary, be guided by Chapter III of The Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 14. Unless otherwise provided in the present Convention, the decisions of the Commission shall be taken by a majority vote of its members. Each member shall have one vote and, if the voting is evenly divided, the President shall have a casting vote. The Commission may take valid decisions if all the members have been duly summoned and if the President and at least two other members are present.

ART. 15. The Commission shall prepare a report on each dispute submitted to it. The report shall embody proposals for the settlement of the dispute, if they are called for by the circumstances of the case and are agreed to by at least three members of the Commission.

The opinion of the members who form the minority shall be recorded in the report, together with a statement of the grounds on which it is based.

ART. 16. The labours of the Commission must be terminated within six months from the date on which the Commission shall have been notified of the dispute, subject to the right of the Parties to extend that period.

The above period shall not include any time during which the Commission's work is suspended under Article 2.



ART. 17. Le rapport de la Commission est signé par le Président et porté sans délai à la connaissance des Parties et du Secrétaire général de la Société des Nations.

Les Parties s'engagent à porter à Leur connaissance réciproque dans un délai raisonnable, si Elles acceptent les constatations du rapport et les propositions qu'il renferme.

Il appartient aux Parties de décider, d'un accord commun, si le rapport de la Commission doit être publié immédiatement. Toutefois, même à défaut de cet accord, la Commission pourra, en cas de raisons spéciales, procéder à la publication immédiate du rapport sur décision prise à l'unanimité des voix ou contre une seule voix dissidente.

ART. 18. Chacune des Parties indemniserà les membres de la Commission nommés par Elle et fournira la moitié de l'indemnité du Président.

Les Parties, doivent chercher à s'entendre pour que, des deux côtés, les indemnités des membres de la Commission soient fixées d'après les mêmes chiffres.

Chaque Partie supportera les frais de procédure encourus par Elle et la moitié de ceux déclarés communs par la Commission.

ART. 19. La présente Convention sera ratifiée et les ratifications seront échangées à Tallinn aussitôt que faire se pourra. Elle entrera en vigueur immédiatement après l'échange des ratifications et aura une durée de cinq années à dater de l'échange des ratifications. Si elle n'a pas été dénoncée six mois au moins avant l'expiration de ce délai, elle restera en vigueur pendant une nouvelle période de cinq ans et sera ainsi de suite censée renouvelée chaque fois pour cinq

ART. 17. The Commission's report shall be signed by the President and shall immediately be brought to the knowledge of the Parties and of the Secretary-General of the League of Nations.

The Parties undertake to inform each other within a reasonable time whether they accept the findings of the report and the settlement proposed therein.

The Parties shall decide by common agreement whether the Commission's report shall be published immediately. Even in the absence of such agreement, however, the Commission may, should there be special reasons for this course, order immediate publication if a decision to that effect is taken unanimously or with a single dissentient vote.

ART. 18. Each Party shall pay the allowances of the members of the Commission whom it has appointed, and shall provide half of the President's allowances.

The Parties shall endeavour to arrange that the allowances of members of the Commission on both sides should be fixed at the same amount.

Each Party shall defray its own expenses and half of those which the Commission may declare to be joint expenses.

ART. 19. The present Convention shall be ratified and the ratifications shall be exchanged at Tallinn as soon as possible. It shall come into force immediately after the exchange of ratifications, and shall remain in force for five years from that date. Unless denounced not less than six months before the expiration of this period, it shall remain in force for a further period of five years, and shall thereafter be deemed to be renewed for successive periods of five years unless

ans, sauf dénonciation six mois au moins avant l'expiration de la précédente période de cinq ans.

En foi de quoi les plénipotentiaires respectifs ont signé la présente Convention et y ont apposé leurs cachets.

Fait à Tallinn, en deux exemplaires, le 18 décembre 1926.

F. Lerche  
Fr. Akel

denounced not less than six months before the expiration of the preceding period of five years

In faith whereof the Plenipotentiaries have signed the present Convention and have thereto affixed their seals.

Done in duplicate at Tallinn, December 18, 1926.

Fr. Akel  
F. Lerche

#### PERMANENT COMMISSION OF CONCILIATION

(Appointed February 11, 1928)

##### *President appointed by both Parties*

JOSEPH LIMBURG, Member of the Council of State of the Netherlands.  
(*Dutch.*)

##### *Members appointed by Denmark*

P. M. L. BIRKEL, Major General, Chief of the Danish General Staff.  
(*Danish.*)

R. J. IRGLINS, Norwegian Minister to Italy. (*Norwegian.*)

##### *Members appointed by Estonia*

JOHAN LAIDONER, General, former Chief of the Estonian Army.  
(*Estonian.*)

RAFAEL ERICH, Professor at the University of Helsingfors, former Prime Minister of Finland. (*Finnish.*)

## No. 76

### GERMANY-ITALY: TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Rome December 29, 1926; ratifications exchanged March 20, 1928.

Original text from Germany, *Reichsgesetzblatt*, 1927, II, No. 31,<sup>1</sup> English translation from League of Nations, *Treaty Series*, LXXV III, 395-401.

(*Translation*)

Il Presidente del Reich Germanico e Sua Maestà il Rè d'Italia, animati dal desiderio di consolidare gli amichevoli rapporti esistenti fra i rispet-

His Majesty the King of Italy and the President of the German Reich, being desirous of strengthening the friendly relations at present

<sup>1</sup> See also League of Nations, *Treaty Series*, LXXVIII, 384. The German text is also authentic.

tivi Paesi e di contribuire viepiù al mantenimento della pace generale, hanno deciso di concludere un trattato di conciliazione e di arbitrato.

A questo scopo hanno nominato loro Plenipotenziari:

il Presidente del Reich Germanico

S. E. il Barone Costantino von Neurath, Ambasciatore di Germania presso Sua Maestà il Rè d'Italia,

Sua Maestà il Rè d'Italia

S. E. il Cavaliere Benito Mussolini, Capo del Governo, Primo Ministro, Ministro degli Affari Esteri,

i quali, dopo avere esaminato i loro pieni poteri ed averli trovati in buona e debita forma, hanno stipulato le seguenti disposizioni:

ARTICOLO I. Le Parti contraenti si obbligano a sottoporre ad una procedura di conciliazione le controversie che sorgessero tra di esse e che non avessero potuto essere risolte in via amichevole con i procedimenti diplomatici ordinari.

Questa disposizione non si applica alle contestazioni nate da fatti che sono anteriori al presente Trattato e che appartengono al passato.

Qualora fallisse la procedura di conciliazione, la controversia sarà portata dinanzi ad arbitri o alla Corte permanente di giustizia internazionale dell'Aja, secondo gli art. 8 e segg. del presente Trattato.

Le controversie per la cui soluzione le Parti contraenti sono obbligate ad una speciale procedura da altri accordi esistenti tra loro, saranno risolte in base alle disposizioni di tali accordi.

ART. 2. Per le vertenze che, a tenore del presente Trattato sono

existing between the two countries and of contributing to the maintenance of general peace, have decided to conclude a Treaty of Conciliation and Arbitration.

For this purpose they have appointed as their Plenipotentiaries:

His Majesty the King of Italy:

His Excellency Benito Mussolini, Head of the Government, Prime Minister, Minister for Foreign Affairs;

The President of the German Reich:

His Excellency Baron Constantino von Neurath, German Ambassador to His Majesty the King of Italy;

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE I. The Contracting Parties undertake to submit to a procedure of conciliation any disputes which may arise between them and which it may not have been possible to settle amicably by the normal methods of diplomacy.

This provision does not apply to disputes arising out of events prior to the present Treaty and belonging to the past.

In the event of the procedure of conciliation proving unsuccessful, the dispute shall be submitted to arbitration or to the Permanent Court of International Justice at The Hague, in accordance with Article 8 *et seq.* of the present Treaty.

Disputes for the settlement of which a special procedure is laid down in other Conventions in force between the Contracting Parties shall be settled in conformity with the provisions of those Conventions.

ART. 2. Should disputes to which the procedure laid down in Articles

suscettibili delle procedure prevedute dagli articoli 1, 8, e 9, se in conformità delle leggi locali della Parte contro la quale viene avanzato reclamo sono di competenza di una autorità giudiziaria o di una giurisdizione amministrativa, può questa Parte chiedere che la controversia venga sottoposta alla procedura di conciliazione o, se del caso, e in conformità degli articoli 8 e segg., alla procedura di arbitrato o dinanzi alla Corte permanente di giustizia internazionale, solo dopo che sia intervenuta nel procedimento giudiziario o amministrativo una decisione definitiva. Per il caso in cui una delle Parti intenda di impugnare la decisione dell'autorità giudiziaria o amministrativa, la vertenza dovrà essere sottoposta alla procedura di conciliazione entro un anno al più tardi dacchè la decisione è stata pronunciata.

ART. 3. Se nella decisione del Tribunale arbitrale o della Corte permanente di giustizia internazionale sia dichiarato che una decisione o una disposizione irrevocabile di un Tribunale o di altra autorità di una delle Parti è in tutto od in parte in contrasto col diritto internazionale, ma secondo il diritto costituzionale di questa Parte le conseguenze della decisione o disposizione non possono essere interamente eliminate mediante provvedimenti amministrativi, la Parte che vi ha interesse potrà riportare la controversia avanti alla Commissione di conciliazione affinché questa esamini se vi ha luogo ad accordare ad essa una equa soddisfazione di altra natura.

ART. 4. Le Parti costituiranno una Commissione permanente di conciliazione composta di cinque membri.

Le Parti Contraenti nomineranno ciascuna liberamente un membro

1, 8 and 9 is applicable, under the terms of the present Treaty, come within the competence of a judicial or administrative authority in accordance with the municipal law of the Party against which a demand has been formulated, such Party may require that the dispute shall not be submitted to a procedure of conciliation or, alternatively, in conformity with Articles 8 *et seq.*, to arbitration or to the Permanent Court of International Justice, until a final decision has been pronounced by the aforesaid judicial or administrative authority. Should one of the Parties intend to dispute the decision of the judicial or administrative authority, the question must be submitted to a procedure of conciliation not later than one year after the date of such decision.

ART. 3. Should the Arbitral Tribunal, or the Permanent Court of International Justice, state in its finding that a decision or final judgment of a court of law or other authority of one of the Parties is wholly or partly at variance with international law and should the constitutional law of that Party not allow of the cancellation of such decision or judgment by administrative procedure, the injured Party may submit the dispute to the Conciliation Commission in order that the latter may decide whether equitable satisfaction in some other form should be granted.

ART. 4. The Parties shall establish a Permanent Conciliation Commission composed of five members.

Each Contracting Party shall nominate one member of its own choosing, the other three members

e di comune accordo sceglieranno gli altri tre. Questi ultimi tre membri non possono essere cittadini dell'uno o dell'altro degli Stati contraenti, nè possono avere la loro residenza nel territorio di essi o trovarsi od essersi trovati al loro servizio. Il Presidente sarà, di comune accordo, nominato fra i medesimi dalle Parti contraenti.

Fin quando non sia iniziato un procedimento, ciascuna delle Parti ha il diritto di revocare il membro da essa nominato e di sostituirlo. Del pari ognuna delle Parti potrà ritirare il suo consenso alla nomina di ciascuno dei tre membri nominati di accordo. In questo caso si deve procedere senza ritardo e d'accordo alla nomina di un nuovo membro. La sostituzione di un membro ha luogo colla stessa procedura della sua nomina.

Con lo stesso sistema indicato nei precedenti capoversi saranno nominati cinque membri supplenti.

La Commissione di conciliazione si riunirà nel luogo designato dal Presidente.

**ART. 5.** Ogni Parte provvederà alle spese occorrenti per il membro da essa nominato nella Commissione permanente di conciliazione, nonché al rimborso della metà delle spese per i rimanenti membri. Ogni Parte sosterrà inoltre le spese da essa provocate per il procedimento come anche la metà di quelle che la Commissione permanente di conciliazione indicherà quali spese comuni.

**ART. 6.** La Commissione permanente di conciliazione entrerà in funzione tosto che una Parte ne farà richiesta. La Parte richiedente rivolgerà la sua istanza contemporaneamente al Presidente della

being appointed by joint agreement. The three latter members may not be nationals of the contracting States nor be domiciled in their territories nor may they be employed or have been employed in their service. The Contracting Parties shall appoint the President by agreement from among these members.

So long as proceedings have not begun, each Party shall have the right to withdraw the member appointed by it and to replace him by another. Subject to the same condition, each Party may withdraw its consent to the appointment of any of the three members nominated jointly. In this case another member shall be appointed by agreement without delay. Members shall be replaced by the same method as was observed in their appointment.

Five deputy members shall be appointed in the manner as indicated in the foregoing paragraphs.

The Permanent Conciliation Commission shall meet at the place chosen by the President.

**ART. 5** Each Party shall pay the expenses of the member of the Permanent Conciliation Commission appointed by itself and one-half of the expenses of the other members. Each Party shall further bear the costs which it has itself occasioned and one half of those which the Permanent Conciliation Commission declares to be joint costs.

**ART. 6.** The Permanent Conciliation Commission shall enter on its duties immediately upon a request being made to it by either Party. The Party making the request shall forward its application simultane-

Commissione permanente di conciliazione ed all'altra Parte.

Le Parti contraenti si obbligano a facilitare in ogni caso e sotto tutti i rapporti i lavori della Commissione permanente di conciliazione ed in particolare a darle la possibilità di escutere sul territorio di esse, e secondo le disposizioni in vigore per i loro tribunali, i testimoni e periti e di procedere a sopralluoghi.

ART. 7. La Commissione permanente di conciliazione esaminerà le speciali questioni ad essa deferite ed esporrà i risultati delle proprie indagini in un rapporto inteso a chiarire le questioni di fatto ed a facilitare la soluzione della controversia. Nel rapporto la Commissione di conciliazione determinerà i punti controversi e farà proposte per dirimere la vertenza.

Il rapporto sarà compilato entro sei mesi dal giorno in cui la controversia fu sottoposta alla Commissione permanente di conciliazione a meno che le Parti non stabiliscano un termine diverso.

A ciascuna delle Parti sarà rimesso un esemplare del rapporto.

Nel termine di tre mesi le Parti dovranno pronunziarsi sulle proposte della Commissione.

Il rapporto della Commissione permanente di conciliazione non ha carattere di decisione definitiva obbligatoria, nè riguardo alla constatazione dei fatti nè riguardo alle questioni di diritto.

ART. 8. Se le Parti sono fra loro in disaccordo su una questione di diritto e non accettano le proposte della Commissione di conciliazione la controversia sarà sottoposta mediante compromesso arbitrale ad uno speciale Tribunale arbitrale.

ously to the President of the Permanent Conciliation Commission and to the other Party.

The Contracting Parties undertake to facilitate in every case and in all respects the work of the Permanent Conciliation Commission and, in particular, to enable the Commission to proceed in their respective territories in accordance with the rules governing their Courts to the summoning and hearing of witnesses or experts, and to visit the localities in question.

ART. 7. The Permanent Conciliation Commission shall examine the special questions referred to it and shall set forth the results of its investigations in a report, the aim of which shall be to elucidate the facts of the case and facilitate the settlement of the dispute. In this report the Conciliation Commission shall define the points at issue and make proposals for settling the dispute.

The report shall be drawn up within six months from the date on which the dispute was submitted to the Permanent Conciliation Commission, unless the Parties agree on a different time-limit.

A copy of the report shall be sent to each Party.

The Parties must give a decision on the Commission's proposals within three months.

The report of the Permanent Conciliation Commission shall not, either as regards statements of facts or as regards legal considerations, be in the nature of a final judgment binding upon the Parties.

ART. 8. Should the Parties disagree on a point of law, and should they not accept the proposals of the Conciliation Commission, the dispute shall be submitted, by means of an agreement (*compromis*), to a special Arbitral Tribunal.

ART. 9. Nel caso indicato nell'articolo precedente le Parti potranno invece che al Tribunale arbitrale, sottoporre la controversia alla Corte permanente di giustizia internazionale dell'Aja, formulando d'accordo i termini delle questioni sulle quali si richiede la decisione. Se su tale formulazione le Parti non si accordano ciascuna di esse è autorizzata a portare la controversia direttamente innanzi alla Corte di giustizia internazionale a mezzo di ricorso, dopo averne dato avviso all'altra due mesi prima.

ART. 10. La decisione del Tribunale arbitrale o della Corte permanente di giustizia internazionale deve essere eseguita in buona fede dalle Parti.

Le Parti contraenti si impegnano a non adottare in quanto possibile, per la durata del procedimento della Commissione di conciliazione, del Tribunale arbitrale, o della Corte permanente di giustizia internazionale, qualsiasi provvedimento che possa pregiudicare l'accettazione delle proposte della Commissione permanente di conciliazione, ovvero la decisione del Tribunale arbitrale o della Corte permanente di giustizia internazionale.

Il Tribunale arbitrale può, a richiesta di una Parte, ordinare provvedimenti di cautela in quanto questi possano essere eseguiti dalle Parti in via amministrativa. La Commissione permanente di conciliazione può del pari fare proposte allo stesso scopo.

ART. 11. La Commissione permanente di conciliazione stabilirà la propria procedura, tenendo conto delle clausole della Convenzione dell'Aja del 18 ottobre 1907 sul

ART. 9. In the case indicated in the foregoing Article, the Parties may submit the dispute to the Permanent Court of International Justice at The Hague instead of to a special Arbitral Tribunal; in that case, they shall jointly draw up a statement specifying the questions on which a decision is requested. Should the Parties not agree as to the terms of this statement, either Party shall be entitled, two months after notice has been given to the other Party, to bring the question in dispute directly before the International Court of Justice by a simple application.

ART. 10. The judgment given by the Arbitral Tribunal or by the Permanent Court of International Justice shall be executed by the Parties in good faith.

The Contracting Parties shall undertake, during the course of the proceedings before the Conciliation Commission, the Arbitral Tribunal, or the Permanent Court of International Justice, to refrain, as far as possible, from any action which might prejudice the acceptance of the proposals of the Permanent Conciliation Commission or the judgment of the Arbitral Tribunal or of the Permanent Court of International Justice.

The Arbitral Tribunal may, at the request of either of the Parties, prescribe conservatory measures provided that such measures can be carried out by the Parties through their administrative machinery. The Permanent Conciliation Commission may also make proposals for the same purpose.

ART. 11. The Permanent Conciliation Commission shall lay down its own procedure, regard being had to the provisions of the Hague Convention of October 18, 1907,

regolamento pacifico di conflitti internazionali.

Salvo contrarie disposizioni del presente Trattato o del compromesso di arbitrato, saranno applicate per il procedimento del Tribunale arbitrale le clausole della anzidetta Convenzione dell'Aja del 18 ottobre 1907.

In quanto il presente trattato si richiama alle disposizioni della Convenzione dell'Aja, tali disposizioni troveranno applicazione nei rapporti tra le Parti contraenti anche se una di esse od entrambe denunceranno la convenzione.

ART. 12. Questo trattato troverà applicazione fra le Parti contraenti anche se altre Potenze siano parimenti interessate alla controversia.

Tuttavia, quando sia possibile sottoporre la controversia ad una unica procedura di arbitrato o ad un unico giudizio con altre Potenze interessate, le Parti contraenti prenderanno accordi in tale senso.

ART. 13. Il presente Trattato non troverà applicazione nelle questioni che, secondo i trattati vigenti tra le due Parti e il diritto internazionale, sono di competenza di una delle due Parti. Non troverà applicazione nemmeno relativamente ai diritti e agli obblighi derivanti dal Patto di Locarno.

ART. 14. Il presente Trattato non porta alcuna modificazione ai diritti ed agli obblighi delle Parti contraenti in quanto Membri della Società delle Nazioni, nè limita in alcun modo le attribuzioni e la competenza della Società delle Nazioni.

ART. 15. Questo Trattato dovrà essere ratificato al più presto possibile. Le ratifiche saranno scambiate in Roma.

for the Pacific Settlement of International Disputes.

Except as otherwise provided in the present Treaty or in the special arbitration agreement, the procedure of the Arbitral Tribunal shall be regulated by the said Hague Convention of October 18, 1907.

In so far as the present Treaty refers to the stipulations of the Hague Convention, the latter shall continue to be applicable to the relations between the Contracting Parties, even if one or both of them should denounce the said Convention.

ART. 12. This Treaty shall apply as between the Contracting Parties even if other States are equally concerned in the dispute.

Should it be possible, however, to submit the dispute, jointly with the other States concerned, to a single procedure of arbitration or judicial settlement, the Contracting Parties shall come to an agreement to that effect.

ART. 13. The present Treaty shall not apply to disputes which, under the terms of Treaties in force between the two Parties, and according to international law, fall within the jurisdiction of either Party. It shall likewise not apply to rights and obligations arising out of the Locarno Pact.

ART. 14. The present Treaty shall not in any way affect the rights and obligations of the Contracting Parties as Members of the League of Nations, nor shall it in any way restrict the powers and competence of the League.

ART. 15. The present Treaty shall be ratified as soon as possible. The instruments of ratification shall be exchanged at Rome.



ART. 16. Il presente Trattato avrà vigore per la durata di dieci anni. Se non sarà denunciato sei mesi prima della scadenza di questo termine, resterà in vigore per altri cinque anni. Varrà la stessa norma per il tempo successivo.

I procedimenti in corso alla scadenza del presente Trattato saranno regolati dalle disposizioni di esso salvo patto in contrario.

In fede di che i Plenipotenziari hanno firmato il presente Trattato.

Fatto in doppio originale, in tedesco ed in italiano, i due testi facendo egualmente fede.

Roma, 29 dicembre 1926.

C. v. Neurath  
Benito Mussolini

ART. 16. The present Treaty shall remain in force for a period of ten years. If not denounced six months before the expiry of this period, it shall remain in force for a further period of five years, and similarly thereafter.

Proceedings which are still pending on the date when the present Treaty is due to expire, shall unless otherwise agreed between the Parties be settled in accordance with its terms.

In faith whereof the Plenipotentiaries have signed the present Treaty.

Done in duplicate in Italian and German, both texts being equally authentic.

Rome, December 29, 1926.

Benito Mussolini  
C. von Neurath

#### PERMANENT COMMISSION OF CONCILIATION

No information available.

### No. 77

#### BELGIUM-SWITZERLAND: TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Brussels February 5, 1927; ratifications exchanged November 12, 1927.

Original text from Switzerland, *Recueil des Lois fédérales*, XLIII, 1927, No. 24;<sup>1</sup>

English translation from League of Nations, *Treaty Series*, LXVIII, 47-57.

(Translation)

Le Conseil Fédéral Suisse et Sa Majesté le Roi des Belges, animés du désir de resserrer les liens d'amitié qui existent entre la Suisse et la Belgique et de résoudre, conformément aux principes à la base du Pacte de la Société des Nations, les différends qui viendraient

His Majesty the King of the Belgians and the Swiss Federal Council, being desirous of strengthening the ties of friendship existing between Belgium and Switzerland, and of settling the disputes which may arise between the two countries in accordance with the princi-

<sup>1</sup> See also League of Nations, *Treaty Series*. LXVIII, 46.

à s'élever entre les deux pays, ont résolu de conclure à cet effet un traité et ont désigné leurs Plénipotentiaires, savoir:

Le Conseil Fédéral Suisse:

Monsieur Barbey, Envoyé extraordinaire et Ministre plénipotentiaire de la Confédération suisse en Belgique,

Sa Majesté le Roi des Belges:

Monsieur Vandervelde, son Ministre des Affaires Etrangères,

lesquels, après s'être fait connaître leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Tous les litiges ayant pour objet un droit, de quelque nature qu'il soit, allégué par une des Parties contractantes et contesté par l'autre et, notamment, les différends mentionnés à l'article 13 du Pacte de la Société des Nations, qui n'auraient pu être réglés, dans un délai raisonnable, par les procédures diplomatiques ordinaires, seront soumis pour jugement à la Cour Permanente de Justice Internationale.

ART. 2. Les Parties contractantes établiront, dans chaque cas particulier, un compromis spécial déterminant nettement l'objet du différend, les compétences particulières qui pourraient être dévolues à la Cour Permanente de Justice Internationale, ainsi que toutes autres conditions arrêtées entre elles.

Le compromis sera établi par échange de notes entre les Gouvernements des Parties contractantes. Il sera interprété en tous points par la Cour de Justice.

Si le compromis n'est pas arrêté dans les trois mois à compter du jour où l'une des Parties aura été

ples upon which the Covenant of the League of Nations is based, have resolved to conclude a treaty for this purpose, and have appointed as their Plenipotentiaries:

His Majesty the King of the Belgians:

M. Vandervelde, His Minister for Foreign Affairs;

The Swiss Federal Council:

M. Barbey, Envoy Extraordinary and Minister Plenipotentiary of the Swiss Confederation in Belgium;

Who, having communicated their full powers found in good and due form, have agreed upon the following provisions:

ARTICLE 1. All disputes relating to a right of any nature whatsoever claimed by one of the Contracting Parties and contested by the other (in particular the disputes mentioned in Article 13 of the Covenant of the League of Nations), which it may not have been possible to settle within a reasonable time by the normal methods of diplomacy, shall be submitted for decision to the Permanent Court of International Justice.

ART. 2. In each particular case the Contracting Parties shall draw up a special agreement specifying clearly the subject of the dispute, the particular competence that might devolve upon the Permanent Court of International Justice and any other conditions fixed between themselves.

The agreement shall be constituted by an exchange of notes between the Governments of the Contracting Parties. All points contained therein shall be interpreted by the Court of Justice.

If the agreement is not drawn up within three months from the date on which one of the Parties was re-

saisie d'une demande aux fins de règlement judiciaire, chaque Partie pourra saisir la Cour de Justice par voie de simple requête.

ART. 3. Avant toute procédure devant la Cour Permanente de Justice Internationale, le différend pourra être, d'un commun accord entre les Parties, soumis à fin de conciliation à une Commission Internationale Permanente, dite Commission Permanente de Conciliation, constituée conformément au présent Traité.

ART. 4. La Commission Permanente de Conciliation sera composée de cinq membres. Les Parties contractantes nommeront, chacune, un commissaire à leur gré et désigneront, d'un commun accord, les trois autres et, parmi ces derniers, le Président de la Commission. Ces trois commissaires ne devront, ni être ressortissants des Parties contractantes, ni avoir leur domicile sur leur territoire ou se trouver à leur service. Ils devront être tous trois de nationalité différente.

Les commissaires seront nommés pour trois ans. Si, à l'expiration du mandat d'un membre de la Commission, il n'est pas pourvu à son remplacement, son mandat est censé renouvelé pour une période de trois ans, les Parties se réservent, toutefois, de transférer, à l'expiration du terme de trois ans, les fonctions du Président à un autre des membres de la Commission désignés en commun.

Un membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre

quested to submit the matter for judicial settlement, either Party may bring the question before the Court of Justice by a simple application.

ART. 3. Before any resort is made to procedure before the Permanent Court of International Justice, the dispute may, by agreement between the Parties, be submitted, with a view to amicable settlement, to a permanent international commission, styled the Permanent Conciliation Commission, constituted in accordance with the present Treaty.

ART. 4. The Permanent Conciliation Commission shall be composed of five members. The Contracting Parties shall each appoint a commissioner of its own choosing and shall appoint by common agreement the three other commissioners and, from among the latter, the President of the Commission. These three commissioners may not be nationals of the Contracting Parties, nor may they have their domicile in the territory or be in the service of the Contracting Parties. They must all three be of different nationalities.

The commissioners shall be appointed for three years. If upon the expiry of the term of office of a member of the Commission no arrangement has been made for his replacement, his term of office shall be deemed to be renewed for a period of three years. Nevertheless, the Parties reserve the right, on the expiry of the term of three years, to transfer the functions of president to another of the members of the Commission, appointed by common agreement.

Any member whose term of office expires while proceedings are still in progress shall continue to take part

part à l'examen du différend jusqu'à ce que la procédure soit terminée, nonobstant le fait que son remplaçant aurait été désigné.

En cas de décès ou de retraite de l'un des membres de la Commission de Conciliation, il devra être pourvu à son remplacement pour le reste de la durée de son mandat, si possible dans les trois mois qui suivront et en tout cas, aussitôt qu'un différend aura été soumis à la Commission.

Au cas où l'un des membres de la Commission de Conciliation désignés en commun par les Parties contractantes serait momentanément empêché de prendre part aux travaux de la Commission par suite de maladie ou de toute autre circonstance, les Parties s'entendront pour désigner un suppléant, qui siégera temporairement à sa place. Si la désignation de ce suppléant n'intervient pas dans un délai de trois mois, à compter de la vacance temporaire du siège, il sera procédé conformément à l'article 5 du présent Traité.

ART. 5. La Commission de Conciliation sera constituée dans les six mois qui suivront l'entrée en vigueur du présent Traité.

Si la nomination des commissaires à désigner en commun n'intervenait pas dans ledit délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, Sa Majesté la Reine des Pays-Bas sera, à défaut d'autre entente, priée de procéder aux désignations nécessaires.

ART. 6. La Commission de Conciliation sera saisie, par voie de requête adressée au Président, par les deux Parties agissant d'un commun accord ou, à défaut, par l'une ou

in the examination of the dispute until the close of such proceedings, even if his successor has been appointed.

Vacancies which may occur as a result of the death or resignation of any member of the Conciliation Commission shall be filled for the remainder of the term of office of such member, if possible within the following three months, and in any case as soon as a dispute is submitted to the Commission.

Should one of the members of the Conciliation Commission appointed by common agreement by the Contracting Parties be temporarily prevented by illness or any other cause from taking part in the Commission's work, the Parties shall agree to appoint a substitute to take his place for the time being. If the appointment of this substitute is not made within three months from the time when the seat became temporarily vacant, the procedure laid down in Article 5 of the present Treaty shall be applicable.

ART. 5. The Conciliation Commission shall be constituted within six months from the entry into force of the present Treaty.

If the nomination of the commissioners to be appointed by common agreement should not have taken place within the said period, or, in the case of the filling of a vacancy, within three months from the time when the seat falls vacant, Her Majesty the Queen of the Netherlands shall, in the absence of any other agreement, be requested to make the necessary appointment.

ART. 6. The Conciliation Commission shall be informed by means of a request addressed to the President by the two Parties acting in agreement, or, in the absence of

l'autre des Parties, si l'article 16 du présent Traité est applicable.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à l'autre Partie.

ART. 7. Dans un délai de quinze jours à partir de la date où l'une des Parties contractantes aura porté un différend devant la Commission de Conciliation, chacune des Parties pourra, pour l'examen de ce différend, remplacer le membre permanent désigné par elle par une personne possédant une compétence spéciale dans la matière. La Partie qui voudrait user de ce droit en avisera immédiatement l'autre Partie; celle-ci aura la faculté d'user du même droit dans un délai de quinze jours à partir de la date où l'avis lui sera parvenu.

Chaque Partie se réserve de nommer immédiatement un suppléant pour remplacer temporairement le membre permanent désigné par elle qui, par suite de maladie ou de toute autre circonstance, se trouverait momentanément empêché de prendre part aux travaux de la Commission.

ART. 8. La Commission de Conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur imposer un délai pour se prononcer.

such agreement, by one or other of the Parties, if Article 16 of the present Treaty is applicable.

The request, after having given a summary account of the subject of the dispute, shall contain an invitation to the Commission to take all necessary measures with a view to arriving at an amicable settlement.

If the request emanates from only one of the Parties, notification thereof shall be made without delay to the other Party.

ART 7 Within fifteen days from the date on which one of the Contracting Parties shall have brought a dispute before the Conciliation Commission, either Party may, for the examination of the particular dispute, replace the permanent member whom it has appointed by a person possessing special competence in the matter. The Party making use of this right shall immediately inform the other Party. The latter shall be entitled to take similar action within fifteen days from the date on which it shall have received notification.

Each of the Parties reserves the right to appoint immediately a substitute to replace for the time being any permanent member appointed by it who may be temporarily prevented by illness or any other cause from taking part in the work of the Commission.

ART. 8. The task of the Conciliation Commission shall be to elucidate questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of settlement which seem suitable to it, and lay down a period

A la fin de ses travaux, la Commission dressera un procès-verbal constatant, suivant le cas, soit que les Parties se sont arrangées et s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la Commission devront, à moins que les Parties n'en conviennent différemment être terminés dans le délai de six mois à compter du jour où la Commission aura été saisie du litige.

Si les Parties n'ont pas été conciliées, la Commission pourra, à moins que les deux commissaires librement nommés par les Parties ne s'y opposent ordonner avant même que la Cour permanente de Justice internationale saisie du différend, ait statué définitivement la publication d'un rapport ou sera consignée l'avis de chacun des membres de la Commission.

ART 9 A moins de stipulation spéciale contraire la Commission de Conciliation réglera elle-même sa procédure qui dans tous les cas devra être contradictoire. En matière d'enquête la Commission si elle n'en décide autrement à l'unanimité se conformera aux dispositions du Titre III (Commissions Internationales d'Enquête) de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART 10 La Commission de Conciliation se réunira sauf accord contraire entre les Parties au lieu désigné par son Président.

ART 11 Les travaux de la Commission de Conciliation ne sont

within which they are to make their decision.

At the close of its proceedings, the Commission shall draw up a report stating, as the case may be, either that the Parties have come to an agreement and, if need be, the terms of the agreement or that it has been impossible to effect a settlement.

The proceedings of the Commission must, unless the Parties agree otherwise be terminated within six months from the day on which the Commission was first notified of the dispute.

If a settlement has not been effected between the Parties, the Commission may, unless the two Commissioners freely appointed by the Parties oppose this procedure, order a report to be published, setting forth the opinion of each of the members of the Commission, even before the Permanent Court of International Justice, notified of the dispute has given a final decision.

ART 9 Failing any special provision to the contrary the Conciliation Commission shall lay down its own procedure which in any case must provide for both Parties being heard. In regard to enquiries, the Commission unless it unanimously decides otherwise shall act in accordance with the provisions of Chapter III (International Commissions of Inquiry) of the Hague Convention of October 18 1907, for the Pacific Settlement of International Disputes.

ART 10 The Conciliation Commission shall meet, in the absence of agreement by the Parties to the contrary at a place selected by its President.

ART 11 The proceedings of the Conciliation Commission shall not

publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties

ART. 12 Les Parties seront représentées auprès de la Commission de Conciliation par des agents ayant mission de servir d'intermédiaire entre elles et la Commission, elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraîtrait utile

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties, ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement

ART 13 Sauf disposition contraire du présent Traité, les décisions de la Commission de Conciliation seront prises à la majorité des voix

ART 14 Les Parties contractantes s'engagent à faciliter les travaux de la Commission de Conciliation et, en particulier, à lui fournir, dans la plus large mesure possible, tous documents et informations utiles, ainsi qu'à user des moyens dont elles disposent pour lui permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux

ART 15 Pendant la durée des travaux de la Commission de Conciliation, chacun des commissaires recevra une indemnité dont le montant sera arrêté, d'un commun accord, entre les Parties contractantes.

be public, except when a decision to that effect has been taken by the Commission with the consent of the Parties

ART 12 The Parties shall be represented before the Conciliation Commission by agents whose duty it shall be to act as intermediaries between them and the Commission. They may, however,<sup>1</sup> be assisted by counsel and experts appointed by them for that purpose, and they may request that all persons whose evidence appears to them useful should be heard

The Commission on its side shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties, as well as from all persons it may think useful to summon, with the consent of their Government

ART 13 Unless otherwise provided in the present Treaty, the decisions of the Conciliation Commission shall be taken by a majority vote

ART 14 The Contracting Parties undertake to facilitate the work of the Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to enable it to proceed in their territory and in accordance with their law to the summoning and hearing of witnesses or experts, and to visit the localities in question

ART 15 During the proceedings of the Conciliation Commission, each commissioner shall receive emoluments, the amount of which shall be fixed by agreement between the Contracting Parties

<sup>1</sup> Should read 'moreover'

Chaque Gouvernement supportera ses propres frais et une part égale des frais communs de la Commission, les indemnités prévues à l'alinéa premier étant comprises parmi ces frais communs

ART 16 Tous les litiges autres que ceux visés à l'article premier qui viendraient à s'élever entre les Parties contractantes et ne pourraient être résolus, dans un délai raisonnable, par les procédés diplomatiques ordinaires seront soumis à la Commission Permanente de Conciliation. Il sera procédé dans ce cas conformément aux articles 7 à 15 du présent Traité

ART 17 Si les Parties ne peuvent être conciliées, le litige sera, à la requête d'une seule des Parties, soumis pour décision à un tribunal arbitral qui, à défaut d'autre accord entre les Parties, sera composé de cinq membres désignés, pour chaque cas particulier suivant la méthode prévue aux articles 4 et 5 du présent Traité en ce qui concerne la Commission de Conciliation

ART 18 Lorsqu'il y aura lieu à arbitrage entre elles les Parties contractantes s'engagent à conclure dans un délai de trois mois à compter du jour où l'une des Parties aura adressé à l'autre la demande d'arbitrage un compromis spécial concernant l'objet du litige ainsi que les modalités de la procédure

Si ce compromis ne peut être conclu dans le délai prévu, il y sera obligatoirement suppléé conformément à la procédure prévue au Titre IV de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux, qui régira, dans ce cas, le recours à l'arbitrage

Each Government shall pay its own expenses and shall pay an equal share of the joint expenses of the Commission, the emoluments provided for in paragraph 1 being included in these joint expenses

ART 16 All disputes other than those referred to in Article 1 which may arise between the Contracting Parties and which it may not be possible to settle within a reasonable time by the normal methods of diplomacy shall be submitted to the Permanent Conciliation Commission. The procedure laid down in Articles 7 to 15 of the present Treaty shall be applicable

ART 17 In the event of no agreement being reached between the Parties, the dispute shall, at the request of either Party, be submitted for decision to an arbitral tribunal consisting in the absence of any other agreement between the Parties of five members appointed for each individual case, according to the method laid down in Articles 4 and 5 of the present Treaty for the constitution of the Conciliation Commission

ART 18 Should recourse be had to arbitration the Contracting Parties undertake to conclude within three months from the day on which one of the Parties shall have addressed to the other a request for arbitration a special agreement concerning the subject of the dispute and the methods of procedure

If this agreement cannot be concluded within the time stipulated, the procedure laid down in Chapter IV of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes shall be obligatory and shall in this case govern the recourse to arbitration



ART 19 S'il s'agit d'un différend qui, à teneur de la législation interne de l'une des Parties, relève de la compétence des tribunaux, y compris les tribunaux administratifs, la Partie défenderesse pourra s'opposer à ce qu'il soit soumis à la procédure de conciliation, à la procédure de règlement judiciaire ou à la procédure d'arbitrage prévue par le présent Traité avant qu'un jugement définitif ait été rendu, dans un délai raisonnable, par l'autorité judiciaire compétente

ART 20 Si la Cour Permanente de Justice Internationale ou le Tribunal Arbitral établissent qu'une décision d'une instance judiciaire ou de toute autre autorité relevant de l'une des Parties contractantes se trouve entièrement ou partiellement en opposition avec le droit des gens et si le droit constitutionnel de cette Partie ne permettait pas ou ne permettait qu'imparfaitement d'écarter par voie administrative les conséquences de la décision dont il s'agit, la sentence judiciaire ou arbitrale déterminerait la nature et l'étendue de la réparation à accorder à la Partie lésée

ART 21 Durant la procédure de conciliation, la procédure judiciaire ou la procédure arbitrale, les Parties contractantes s'abstiendront de toute mesure pouvant avoir une répercussion sur l'acceptation des propositions de la Commission de Conciliation ou sur l'exécution de l'arrêt de la Cour Permanente de Justice Internationale ou de la sentence du Tribunal Arbitral. A cet effet, la Commission de Conciliation, la Cour de Justice et le Tribunal Arbitral ordonneront, le cas échéant, quelles mesures provisionnelles doivent être prises

ART 22 Les contestations qui surgiraient au sujet de l'interpré-

ART 19 In the case of a dispute which, according to the municipal law of one of the Parties, falls within the competence of the courts, including the administrative tribunals, the defendant Party may require that the dispute shall not be submitted to the procedure of conciliation, judicial settlement or arbitration as laid down in the present Treaty until a judgment with final effect has been pronounced within a reasonable time by the competent judicial authority

ART 20 Should the Permanent Court of International Justice or the Arbitral Tribunal find that a decision of a court of law or any other authority of either of the Contracting Parties is wholly or in part contrary to international law and if the constitutional law of that Party does not permit or only partially permits the consequences of the decision in question to be annulled by administrative action the judicial decision or arbitral award should indicate the nature and extent of the compensation to be granted to the injured Party

ART 21 During the course of proceedings of conciliation, judicial settlement or arbitration the Contracting Parties shall abstain from all measures likely to exert any influence on the acceptance of the proposals of the Conciliation Commission, or the execution of the judgment of the Permanent Court of International Justice, or the award of the Arbitral Tribunal. For this purpose, the Conciliation Commission, the Court of Justice and the Arbitral Tribunal shall, if necessary, lay down the provisional measures to be adopted

ART 22 Any disputes arising as to the interpretation or execution

tation ou de l'exécution du présent Traité seront, sauf accord contraire, soumises directement à la Cour Permanente de Justice Internationale par voie de simple requête.

ART. 23. Le présent Traité ne s'appliquera qu'aux litiges qui viendraient à s'élever, après l'échange des ratifications du présent Traité, au sujet de situations ou de faits postérieurs à cette date.

Les litiges pour la solution desquels une procédure spéciale est prévue par d'autres accords en vigueur entre les Parties contractantes seront réglés conformément aux stipulations de ces accords.

ART. 24. Le présent Traité sera ratifié. Les instruments de ratification en seront échangés à Bruxelles, dans le plus bref délai possible.

Le présent Traité entrera en vigueur dès l'échange des ratifications et aura une durée de dix ans à partir de son entrée en vigueur. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il sera considéré comme renouvelé pour une période de cinq années, et ainsi de suite.

Si, lors de l'expiration du présent Traité, une procédure de conciliation, de règlement judiciaire ou d'arbitrage se trouve pendante, elle suivra son cours jusqu'à son achèvement, conformément aux stipulations du présent Traité.

Le présent Traité abroge le Traité d'arbitrage conclu entre les Parties contractantes le 15 novembre 1904.

En foi de quoi, les Plénipotentiaires susnommés ont signé le présent Traité.

Fait à Bruxelles, en double exemplaire, le 5 février 1927.

Vandervelde  
Frédéric Barbey

of the present Treaty shall, in the absence of any agreement to the contrary, be submitted direct to the Permanent Court of International Justice by a simple application.

ART. 23. The present Treaty shall apply only to disputes arising after the exchange of the ratifications of this Treaty in connection with situations or events subsequent to that date.

Disputes for the settlement of which a special procedure is laid down in other agreements in force between the Contracting Parties shall be settled in conformity with the provisions of those agreements.

ART. 24. The present Treaty shall be ratified and the instruments of ratification exchanged at Brussels as soon as possible.

The present Treaty shall come into force as soon as the ratifications are exchanged and shall remain in force for ten years from that date. Unless denounced six months before the expiration of this period, it shall be regarded as renewed for a period of five years, and similarly thereafter for successive periods of five years.

If, at the time of the expiration of the present Treaty, proceedings of conciliation, judicial settlement or arbitration are pending, they shall pursue their course until their completion in accordance with the stipulations of the present Treaty.

The present Treaty abrogates the Treaty of Arbitration concluded between the Contracting Parties on November 15, 1904.

In faith whereof the above-named Plenipotentiaries have signed the present Treaty.

Done in duplicate at Brussels on February 5, 1927.

Frederic Barbey  
E. Vandervelde

## PERMANENT COMMISSION OF CONCILIATION

(Appointed May 12, 1928)

*President appointed by both Parties*

JAMES BROWN SCOTT, President of the Institute of International Law  
(*American*)

*Members appointed by both Parties*

RANIERO MARQUIS PAULUCCI DI CALBOLI, Senator, former Italian Ambassador to Spain and Switzerland (*Italian*)

E. M. WOHLBACH, Norwegian Minister to Sweden (*Norwegian*)

*Member appointed by Belgium*

BARON ROLIN-JOUTERMANS, former Minister of the Interior (*Belgian*)

*Member appointed by Switzerland*

HENRY CAMER, Member of the National Council (*Swiss*)

## No. 78

## CHILE ITALY TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed February 24 1927, ratifications exchanged December 2, 1927

Original text and English translation from League of Nations, *Treaty Series* LXIV, 278 287

*(Translation)*

Sa Majesté le Roi d'Italie et le Président de la République du Chili, animés du désir de resserrer toujours davantage les liens d'amitié qui unissent l'Italie et le Chili et pénétrés de l'esprit de cordialité qui caractérise leurs rapports réciproques,

Ont résolu de conclure un traité pour le règlement amiable des différends qui pourraient s'élever entre les deux pays,

Et ont nommé à cet effet leurs plénipotentiaires, savoir

Sa Majesté le Roi d'Italie

S. E. Benito Mussolini, chef du Gouvernement, premier ministre, ministre des Affaires étrangères,

Le Président de la République du Chili

His Majesty the King of Italy, and the President of the Republic of Chile desirous of strengthening still further the bonds of friendship which exist between Italy and Chile, and imbued with the spirit of cordiality which characterises their reciprocal relations,

Have resolved to conclude a Treaty for the friendly settlement of disputes which may arise between the two countries

And have appointed as their Plenipotentiaries for this purpose

His Majesty the King of Italy

H. E. Benito Mussolini, Head of the Government, Prime Minister and Minister for Foreign Affairs,

The President of the Republic of Chile

S. E. Enrique Villegas, ambassadeur du Chili près S. M. le Roi d'Italie;

Lesquels, après s'être fait connaître leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Les Parties contractantes s'engagent à soumettre à une procédure de conciliation tous les différends, de quelque nature qu'ils soient, qui s'élèveraient entre elles et n'auraient pu être résolus par la voie diplomatique dans un délai raisonnable.

En cas d'échec de la procédure de conciliation, un règlement judiciaire sera recherché conformément aux articles 16 et suivants du présent traité.

Demeurent réservés les différends pour la solution desquels une procédure spéciale est prescrite par d'autres conventions en vigueur entre les Parties contractantes.

ART. 2. S'il s'agit d'un différend qui, à teneur de la législation intérieure de l'une des Parties, relève de la compétence des tribunaux, la Partie défenderesse pourra s'opposer à ce qu'il soit soumis à une procédure de conciliation et, le cas échéant, à un règlement judiciaire, avant qu'un jugement définitif ait été rendu par l'autorité judiciaire compétente et à moins qu'une des Parties considère le cas comme dénegation de justice.

La demande de conciliation devra, dans ce cas, être formée dans une année, au plus tard à compter de ce jugement.

ART. 3. Les Parties contractantes institueront une Commission permanente de conciliation composée de cinq membres.

Elles nommeront chacune un membre à leur gré et désigneront les

H. E. Enrique Villegas, Chilean Minister accredited to His Majesty the King of Italy;

Who, having communicated their full powers, found in good and due form, have agreed as follows:

ARTICLE 1. The Contracting Parties undertake to submit to a procedure of conciliation all disputes of any nature whatever which may arise between them and which it may not have been possible to settle within a reasonable time by diplomacy.

In the event of the procedure of conciliation proving unsuccessful, a judicial settlement shall be sought in conformity with Articles 16 *et seq.* of the present Treaty.

The above shall not apply to disputes for the settlement of which a special procedure is laid down by other Conventions in force between the Contracting Parties.

ART. 2. In the case of a dispute which, according to the domestic legislation of one of the Parties, comes within the jurisdiction of the Courts, the defendant Party may oppose the submission of the dispute to a procedure of conciliation or, alternatively, to a judicial settlement, until a final judgment has been given by the competent judicial authority and unless one of the Parties regards the case as a denial of justice.

In this case the request for conciliation procedure must be made within a year at most from the date of such judgment.

ART. 3. The Contracting Parties shall establish a Permanent Conciliation Commission composed of five members.

Each Party shall nominate one member of its own choosing, the

trois autres d'un commun accord. Ce trois membres ne devront ni être des ressortissants des Parties contractantes ni avoir leur domicile sur leur territoire ou se trouver à leur service.

Le président de la Commission sera nommé, d'un commun accord, parmi les membres désignés en commun.

Tant que la procédure n'est pas ouverte, chacune des Parties contractantes aura le droit de révoquer le commissaire nommé par elle et de lui désigner un successeur, comme aussi de retirer son consentement à la nomination de chacun des trois membres désignés en commun. Dans ce cas, il y aura lieu de procéder sans délai au remplacement des membres dont le mandat a pris fin.

Il sera pourvu au remplacement des commissaires selon le mode fixé pour leur nomination.

ART. 4. La Commission sera constituée dans les six mois qui suivront l'échange des ratifications du présent traité.

Si la nomination des membres à désigner en commun n'intervient pas dans ce délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, il sera procédé aux nominations conformément à l'article 45 de la Convention de la Haye pour le règlement pacifique des conflits internationaux du 18 octobre 1907.

ART. 5. La Commission permanente de conciliation aura pour tâche de faciliter la solution du différend, en éclaircissant, par un examen impartial et consciencieux, les questions de fait et en formulant des propositions en vue du règlement de la contestation.

Elle sera saisie sur requête adressée à son président par l'une des Parties contractantes.

other three being appointed by agreement between the Parties. The latter members may not be nationals of the Contracting States nor be domiciled in their territory nor be employed in their service.

The President of the Commission shall be appointed by agreement between the Parties from among the jointly selected members.

So long as the procedure has not begun, each Contracting Party shall have the right to revoke the appointment of its nominee and to replace him by another, and also to withdraw its consent to the appointment of any of the three members nominated jointly. In this case the necessary replacement shall be effected without delay.

Members shall be replaced under the same conditions as were observed in their appointment.

ART. 4. The Commission shall be set up within six months after the ratifications of the present Treaty have been exchanged.

If the appointment of the members to be nominated jointly is not made within this period or, in case of their replacement, within three months after the vacancy occurs, such appointments shall be made in accordance with Article 45 of the Hague Convention of October 18, 1907, for the pacific settlement of international disputes.

ART. 5. The task of the Permanent Conciliation Commission shall be to further the settlement of disputes by an impartial and conscientious examination of the facts and by formulating proposals with a view to settling the case.

The Commission shall be informed of a question by an application addressed to its President by one of the Contracting Parties.

Notification de cette requête sera faite, en même temps, à la Partie adverse par la Partie qui demande l'ouverture de la procédure de conciliation.

ART. 6. La commission se réunira, sauf convention contraire, au lieu désigné par son président.

ART. 7. La procédure devant la commission sera contradictoire.

La commission réglera elle-même la procédure, en tenant compte, sauf décision contraire prise à l'unanimité, des dispositions contenues au titre III de la Convention de La Haye pour le règlement pacifique des conflits internationaux, du 18 octobre 1907.

ART. 8. Les délibérations de la commission auront lieu à huis clos, à moins que la commission, d'accord avec les Parties, n'en décide autrement.

ART. 9. Les Parties contractantes auront le droit de nommer auprès de la commission des agents spéciaux qui serviront, en même temps, d'intermédiaires entre elles et la commission.

ART. 10. Sauf disposition contraire du présent traité, les décisions de la commission seront prises à la majorité simple des voix.

ART. 11. Les Parties contractantes s'engagent à faciliter dans la plus large mesure possible, les travaux de la commission, et, en particulier, à user de tous les moyens dont elles disposent, d'après leur législation intérieure, pour lui permettre de procéder, sur leur territoire, à la citation et à l'audition de témoins ou d'experts, ainsi qu'à des descentes sur les lieux.

This application shall be notified at the same time to the opposing Party by the Party which is requesting the institution of the procedure of conciliation.

ART. 6. The Commission shall meet at the place chosen by the President, unless there is an agreement to the contrary.

ART. 7. In proceedings before the Commission both Parties shall be heard.

The Commission shall draw up its own rules of procedure, regard being had to the regulations laid down in Part III of the Hague Convention of October 18, 1907, for the pacific settlement of international disputes, unless the Commission unanimously decides otherwise.

ART. 8. The deliberations of the Commission shall be in private, unless in agreement with the Parties the Commission decides otherwise.

ART. 9. The Contracting Parties shall be entitled to appoint special agents on<sup>1</sup> the Commission. These agents shall also act as intermediaries between the Parties and the Commission.

ART. 10. The Commission shall take its decisions by a majority vote of its members except as otherwise laid down in the present Treaty.

ART. 11. The Contracting Parties undertake to give the Commission all possible assistance in its work and, in particular, to employ all the means placed at their disposal by their domestic legislation to enable it to call and hear witnesses or experts within their territory as well as to carry out investigations on the spot.

<sup>1</sup> Cf. p. 88, note 1.

ART. 12. La commission présentera son rapport dans les six mois à compter du jour où elle aura été saisie du différend, à moins que les Parties contractantes ne décident, d'un commun accord, de proroger ce délai.

Un exemplaire du rapport sera remis à chacune des Parties.

Le rapport de la commission n'aura, ni en ce qui concerne l'exposé des faits, ni en ce qui concerne les considérations juridiques, le caractère d'une sentence arbitrale.

ART. 13. La Commission de conciliation fixera le délai dans lequel les Parties auront à se prononcer à l'égard de ses propositions.

Ce délai n'excédera pas, toutefois, la durée de quatre mois.

ART. 14. Pendant la durée effective de la procédure, les membres de la Commission de conciliation recevront une indemnité dont le montant sera arrêté entre les Parties contractantes.

Chaque Partie supportera ses propres frais et une part égale des frais de la commission.

ART. 15. Avant la solution d'un différend, le rapport de la commission ne pourra être publié par l'une des Parties sans le consentement de l'autre. Néanmoins, dans le cas où il existe des raisons spéciales, la commission pourra ordonner la publication immédiate du rapport sans le consentement préalable des Parties.

ART. 16. Si l'une des Parties n'accepte pas les propositions de la Commission permanente de conciliation, ou ne se prononce pas dans le délai fixé par son rapport, chacune d'elles pourra demander que le litige soit soumis à la Cour

ART. 12. The Commission shall make its report within six months from the day on which the dispute is submitted to it, unless the Contracting Parties agree to an extension of this period.

A copy of the report shall be sent to each Party.

The Commission's report shall not be in the nature of an arbitral award, as regards either the statement of facts or the legal considerations.

ART. 13. The Conciliation Commission shall fix the period within which the Parties will be required to take their decision as regards the Commission's proposals.

This period shall not, however, exceed four months.

ART. 14. For the actual duration of the procedure, the members of the Conciliation Commission shall receive an allowance to be fixed by an arrangement between the Contracting Parties.

Each Party shall bear its own costs and half the costs of the Commission.

ART. 15. Until the dispute has been settled, neither Party may publish the Commission's report without the consent of the other Party. Nevertheless, should there be special reasons for so doing, the Commission may order the report to be published immediately, without the previous consent of the Parties.

ART. 16. If one of the Parties does not accept the proposals of the Permanent Conciliation Commission, or does not announce its decision within the period prescribed in the report, either Party may request that the dispute be submitted

permanente de Justice internationale.

Dans le cas où, de l'avis de la Cour, le litige ne serait pas d'ordre juridique, les Parties conviennent qu'il sera tranché *ex aequo et bono*.

ART. 17. Les Parties contractantes établiront, dans chaque cas particulier, un compromis spécial déterminant nettement l'objet du différend, les compétences particulières qui pourraient être dévolues à la Cour permanente de Justice internationale, ainsi que toutes autres conditions arrêtées entre elles.

Le compromis sera établi par échange de notes entre les gouvernements des Parties contractantes.

Il sera interprété en tous points par la Cour de justice.

Si le compromis n'est pas arrêté dans les trois mois à compter du jour où l'une des Parties a été saisie d'une demande aux fins de règlement judiciaire, chaque Partie pourra saisir la Cour de justice par voie de simple requête.

ART. 18. Si la Cour permanente de Justice internationale établissait qu'une décision d'une instance judiciaire ou de toute autre autorité relevant de l'une des Parties contractantes se trouve entièrement ou partiellement en opposition avec le droit des gens, et si le droit constitutionnel de cette Partie ne permettait pas ou ne permettait qu'imparfaitement d'effacer par voie administrative les conséquences de la décision dont il s'agit, il serait accordé à la Partie lésée une satisfaction équitable d'un autre ordre.

ART. 19. L'arrêt rendu par la Cour permanente de Justice internationale sera exécuté de bonne foi par les Parties.

to the Permanent Court of International Justice.

If, in the opinion of the Court, the case is not of a juridical nature, the Parties shall agree to its being settled *ex aequo et bono*.

ART. 17. In each particular case the Contracting Parties shall draw up a special agreement (*compromis*) specifying clearly the subject of the dispute, the particular competence that might devolve upon the Permanent Court of International Justice, and any other conditions fixed between themselves.

The special agreement shall be constituted by an exchange of notes between the Governments of the Contracting Parties.

All points contained therein shall be interpreted by the Court of Justice.

If the special agreement is not drawn up within three months from the day on which one of the Parties was requested to submit the matter for judicial settlement, either Party may bring the question before the Court of Justice by a simple application.

ART. 18. Should the Permanent Court of International Justice find that a decision of a court of law or other authority of one of the Contracting States is wholly or partly at variance with international law, and should the constitutional law of that State not allow, or only inadequately allow, the cancellation of this decision by administrative procedure, the Party prejudiced shall be granted equitable satisfaction in some other form.

ART. 19. The judgment given by the Permanent Court of International Justice shall be acted upon by the Parties in good faith.



Les difficultés, auxquelles son interprétation pourrait donner lieu, seront tranchées par la Cour permanente de Justice internationale, que chacune des Parties pourra saisir à cette fin par voie de simple requête.

ART. 20. L'urant le cours de la procédure de conciliation ou de la procédure judiciaire, les Parties contractantes s'abstiendront de toute mesure pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission de conciliation ou sur l'exécution de l'arrêt de la Cour permanente de Justice internationale.

ART. 21. Les contestations qui surgiraient au sujet de l'interprétation ou de l'exécution du présent traité seront, sauf convention contraire, soumises directement à la Cour permanente de Justice internationale par voie de simple requête.

ART. 22. Le présent traité ne porte aucune atteinte aux droits et obligations des Parties contractantes en tant que Membres de la Société des Nations et, par conséquence, il ne limite pas les attributions et la compétence de la Société des Nations.

Néanmoins, il reste entendu que tout différend qui pourra surgir entre les Parties contractantes devra d'abord être soumis à la procédure fixée à l'article premier du présent traité, avant d'être soumis au Conseil de la Société des Nations, selon l'article 15 du Pacte.

ART. 23. Le présent traité sera ratifié.

Les instruments de ratification en seront échangés à Rome dans le plus bref délai possible.

Le traité entrera en vigueur dès l'échange des ratifications. Il est

Any difficulties regarding the interpretation of the judgment shall be settled by the Permanent Court upon a simple application for this purpose by either Party.

ART. 20. During the procedure of conciliation or the judicial procedure, the Contracting Parties shall abstain from all measures which might prejudicially affect the acceptance of the proposals of the Conciliation Commission or the execution of the judgment of the Permanent Court of International Justice.

ART. 21. Any disputes which may arise as to the interpretation or the execution of the present Treaty shall, in the absence of any agreement to the contrary, be submitted direct to the Permanent Court of International Justice by simple application.

ART. 22. The present Treaty shall in no way affect the rights and obligations of the Contracting Parties as Members of the League of Nations and consequently shall not limit the powers or competence of the League of Nations.

Nevertheless, it is understood that any dispute that may arise between the Contracting Parties shall first be dealt with under the procedure laid down in Article 1 of the present Treaty, before being submitted to the Council of the League of Nations as provided in Article 15 of the Covenant.

ART. 23. The present Treaty shall be ratified.

The instruments of ratification shall be exchanged at Rome as soon as possible.

The Treaty shall come into force as soon as the instruments of rati-

conclu pour la durée de dix ans à compter de son entrée en vigueur. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il sera censé être renouvelé pour une nouvelle période de cinq ans, et ainsi de suite.

Si une procédure de conciliation ou une procédure judiciaire est pendante, lors de l'expiration du présent traité, elle suivra son cours conformément aux dispositions du présent traité ou de toute autre convention que les Parties contractantes auraient convenu de lui substituer.

En foi de quoi les plénipotentiaires ont signé le présent traité.

Fait à Rome, en double exemplaire, le vingt-quatre février mil neuf cent vingt-sept.

Benito Mussolini  
E. Villegas

fication have been exchanged. It shall be concluded for a period of ten years from the date of its coming into force. Unless denounced six months before the expiration of this period, it shall be deemed to have been renewed for a further period of five years, and similarly thereafter.

If a procedure of conciliation or a judicial procedure is pending at the time of the expiration of the present Treaty, it shall pursue its course in accordance with the provisions of the present Treaty or any other convention which the Contracting Parties may have agreed to substitute therefor.

In faith whereof the Plenipotentiaries have signed the present Treaty.

Done at Rome, in duplicate, February the twenty-fourth, one thousand nine hundred and twenty-seven.

Benito Mussolini  
E. Villegas

#### PERMANENT COMMISSION OF CONCILIATION

##### *President appointed by both Parties*

JONKHEER H. A. VAN KARNEBEEK, former Minister for Foreign Affairs of the Netherlands. (*Dutch.*)

##### *Members appointed by both Parties*

SIR JAMES RENNELL RODD, former British Ambassador to Italy. (*British.*)

RODRIGO OCTAVIO, Professor at the University of Rio de Janeiro. (*Brazilian.*)

##### *Member appointed by Chile*

ALEJANDRO LIRA, former Chilean Minister of War. (*Chilean.*)

##### *Member appointed by Italy*

GIOVANNI BATTISTA GIURIATI, Italian Minister of Public Works. (*Italian.*)

## No. 79

BELGIUM-DENMARK: TREATY OF CONCILIATION,  
ARBITRATION, AND COMPULSORY  
ADJUDICATION

Signed at Brussels March 3, 1927; ratifications exchanged September 30, 1927.

Original text communicated by the Danish Legation at Washington, D. C.;<sup>1</sup> English translation from League of Nations, *Treaty Series*, LXVII, 119-129.

(*Translation*)

Sa Majesté le Roi de Danemark et d'Islande et Sa Majesté le Roi des Belges, animés du désir de développer les relations amicales qui unissent le Danemark et la Belgique,

décidés à donner, dans leurs rapports réciproques, une large application aux principes dont s'inspire la Société des Nations, ont résolu de conclure un Traité de Conciliation, de Règlement Judiciaire et d'Arbitrage et ont nommé à cet effet pour leurs Plénipotentiaires, savoir:

Sa Majesté le Roi de Danemark et d'Islande:

Son Excellence M. Otto Krag, Son Envoyé Extraordinaire et Ministre Plénipotentiaire en Belgique, Sa Majesté le Roi des Belges:

M. E. Vandervelde, Son Ministre des Affaires Etrangères,

lesquels après s'être fait connaître leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

His Majesty the King of Denmark and Iceland and His Majesty the King of the Belgians,

Being desirous of developing the friendly relations which unite the two countries, and

Having decided that their relations with one another shall be governed in the largest possible measure by the principles upon which the League of Nations is based,

Have resolved to conclude a Treaty of Conciliation, Judicial Settlement and Arbitration, and for this purpose have appointed as their Plenipotentiaries:

His Majesty the King of Denmark and Iceland:

His Excellency M. Otto Krag, His Envoy Extraordinary and Minister Plenipotentiary in Belgium;

His Majesty the King of the Belgians:

M. E. Vandervelde, His Minister for Foreign Affairs;

Who, having exchanged their full powers, found in good and due form, have agreed upon the following provisions:

PARTIE I

ARTICLE 1. Toutes contestations entre le Danemark et la Belgique, de quelque nature qu'elles soient,

PART I

ARTICLE 1. All disputes of every kind between Denmark and Belgium with regard to which the Par-

<sup>1</sup> See also League of Nations, *Treaty Series*, LXVII, 118.

au sujet desquelles les Parties se contesteraient réciproquement un droit, et qui n'auraient pu être réglées à l'amiable par les procédés diplomatiques ordinaires, seront soumises pour jugement à la Cour Permanente de Justice Internationale, ainsi qu'il est prévu ci-après.

Les contestations de cette espèce, pour la solution desquelles une procédure spéciale est prévue par d'autres conventions en vigueur entre le Danemark et la Belgique, seront réglées conformément aux dispositions de ces conventions.

ART. 2. Avant toute procédure devant la Cour Permanente de Justice Internationale, la contestation pourra être, d'un commun accord entre les Parties, soumise à fin de conciliation à une commission internationale permanente, dite Commission Permanente de Conciliation, constituée conformément au présent Traité.

ART. 3. La Commission Permanente de Conciliation prévue à l'article 2 sera composée de cinq membres, qui seront désignés comme il suit, savoir: le Gouvernement danois et le Gouvernement belge nommeront chacun un commissaire choisi parmi leurs nationaux respectifs et désigneront, d'un commun accord, les trois autres commissaires parmi les ressortissants de tierces Puissances; ces trois commissaires devront être de nationalité différente et, parmi eux, les Gouvernements danois et belge désigneront le Président de la Commission.

Les commissaires sont nommés pour trois ans; leur mandat est renouvelable. Ils resteront en fonctions, jusqu'à leur remplacement, et, dans tous les cas, jusqu'à l'achèvement de leurs travaux en

ties are in conflict as to their respective rights and which it may not have been possible to settle amicably by the normal methods of diplomacy shall be submitted for decision to the Permanent Court of International Justice as herein-after laid down.

Disputes for the settlement of which a special procedure is laid down in other Conventions in force between Denmark and Belgium shall be settled in conformity with the provisions of those conventions.

ART. 2. Before any resort is made to procedure before the Permanent Court of International Justice, the dispute may, by agreement between the Parties, be submitted, with a view to amicable settlement, to a permanent international commission styled the "Permanent Conciliation Commission," constituted in accordance with the present Treaty.

ART. 3. The Permanent Conciliation Commission mentioned in Article 2 shall be composed of five members, who shall be appointed as follows: the Danish Government and the Belgian Government shall each nominate a commissioner chosen from among their respective nationals, and shall appoint, by common agreement, the three other commissioners from among the nationals of third Powers. These three commissioners must be of different nationalities, and the Danish and the Belgian Governments shall appoint the President of the Commission from among them.

The commissioners are appointed for three years and their mandate is renewable. Their appointment shall continue until their replacement, and in any case, until the

cours au moment de l'expiration de leur mandat.

Il sera pourvu, dans le plus bref délai, aux vacances qui viendraient à se produire, par suite de décès, de démission ou de quelque autre empêchement, en suivant le mode fixé pour les nominations.

ART. 4. La Commission Permanente de Conciliation sera constituée dans les six mois qui suivront l'entrée en vigueur du présent Traité.

Si la nomination des commissaires à désigner en commun n'intervenait pas dans le dit délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, le Président de la Cour Permanente de Justice Internationale ou, si celui-ci est ressortissant de l'une des deux Parties contractantes, le Vice-Président ou le membre le plus ancien de la Cour, qui n'est ressortissant d'aucune de celles-ci, sera, à défaut d'autre entente, prié de procéder aux désignations nécessaires.

ART. 5. La Commission Permanente de Conciliation sera saisie, par voie de requête adressée au Président, par les deux Parties agissant d'un commun accord ou, à défaut, par l'une ou l'autre des Parties.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à tous mesures propres à conduire à une conciliation.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci, sans délai, à la Partie adverse.

termination of the work in hand at the moment of the expiry of their mandate.

Vacancies which may occur as a result of death, resignation, or any other cause shall be filled within the shortest possible time in the manner laid down for the nominations.

ART. 4. The Permanent Conciliation Commission shall be constituted within six months from the entry into force of the present Treaty.

If the nomination of the commissioners to be appointed by common agreement should not have taken place within the said period, or, in the case of the filling of a vacancy, within three months from the time when the seat falls vacant, the President of the Permanent Court of International Justice, or, if the latter is a national of one of the Contracting Parties, the Vice-President or the senior member of the Court who is not a national of either Party shall, in the absence of other agreement, be requested to make the necessary appointments.

ART. 5. The Permanent Conciliation Commission shall be informed by means of a request addressed to the President by the two Parties acting in agreement or, in the absence of such agreement, by one or other of the Parties.

The request, after having given a summary account of the subject of the dispute, shall contain an invitation to the Commission to take all necessary measures with a view to arriving at an amicable settlement.

If the request emanates from only one of the Parties, notification thereof shall be made without delay to the other Party.

**ART. 6.** Dans un délai de 15 jours à partir de la date où soit le Gouvernement danois, soit le Gouvernement belge aurait porté une contestation devant la Commission Permanente de Conciliation, chacune des Parties pourra, pour l'examen de cette contestation, remplacer le membre de la Commission qu'elle a nommé, par une personne possédant une compétence spéciale dans la matière.

La Partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie; celle-ci aura, dans ce cas, la faculté d'agir de même, dans un délai de 15 jours à partir de la date où la notification lui sera parvenue.

**ART. 7.** La Commission Permanente de Conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

À la fin de ses travaux, la Commission dressera un procès-verbal constatant, suivant le cas, soit que les Parties se sont arrangées et, s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la Commission devront, à moins que les Parties en conviennent différemment, être terminés dans le délai de six mois à compter du jour où la Commission aura été saisie du litige.

**ART. 8.** À moins de stipulation spéciale contraire, la Commission Permanente de Conciliation réglera

**ART. 6.** Within fifteen days from the date on which the Danish Government or the Belgian Government shall have brought a dispute before the Permanent Conciliation Commission, either Party may, for the examination of the particular dispute, replace the member whom it has appointed by a person possessing special competence in the matter.

The Party making use of this right shall immediately inform the other Party. The latter shall in that case be entitled to take similar action within fifteen days from the date on which it shall have received notification.

**ART. 7.** The task of the Permanent Conciliation Commission shall be to elucidate questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of settlement which seem suitable to it, and lay down a period within which they are to make their decision.

At the close of its proceedings, the Commission shall draw up a report stating, as the case may be, either that the Parties have come to an arrangement, and, if need be, the terms of the agreement, or that it has been impossible to effect a settlement.

The proceedings of the Commission must, unless the Parties otherwise agree, be terminated within six months from the day on which the Commission was first notified of the dispute.

**ART. 8.** Failing any special provision to the contrary, the Permanent Conciliation Commission shall

elle-même sa procédure, qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la Commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du Titre III (Commissions Internationales d'Enquête) de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 9. La Commission Permanente de Conciliation se réunir, sauf accord contraire entre les Parties, au lieu désigné par son Président.

ART. 10. Les travaux de la Commission Permanente de Conciliation ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties.

ART. 11. Les Parties seront représentées auprès de la Commission Permanente de Conciliation par des agents ayant mission de servir d'intermédiaire entre elles et la Commission; elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraîtra utile.

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement.

ART. 12. Sauf disposition contraire du présent Traité, les décisions de la Commission Permanente de Conciliation seront prises à la majorité des voix. Chaque membre disposera d'une voix; en cas de partage, la voix du Président sera décisive.

lay down its own procedure, which in any case must provide for both Parties being heard. In regard to enquiries, the Commission, unless it unanimously decides otherwise, shall act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 9. The Permanent Conciliation Commission shall meet, in the absence of agreement by the Parties to the contrary, at a place selected by its President.

ART. 10. The proceedings of the Permanent Conciliation Commission shall not be public, except when a contrary decision has been taken by the Commission with the consent of the Parties.

ART. 11. The Parties shall be represented before the Permanent Conciliation Commission by agents, whose duty it shall be to act as intermediaries between them and the Commission. They may, moreover, be assisted by counsel and experts appointed by them for that purpose, and they may request that all persons whose evidence appears to them useful should be heard.

The Commission on its side shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties, as well as from all persons it may think useful to summon with the consent of their respective Governments.

ART. 12. Unless otherwise provided in the present Treaty, the decisions of the Permanent Conciliation Commission shall be taken by a majority vote. Each member shall have one vote. If the votes are equal, the President shall have a casting vote.

La Commission ne pourra prendre des décisions portant sur le fond du différend que si tous les membres sont présents.

ART. 13. Les Gouvernements danois et belge s'engagent à faciliter les travaux de la Commission Permanente de Conciliation et, en particulier, à lui fournir, dans la plus large mesure possible, tous documents et informations utiles, ainsi qu'à user des moyens dont ils disposent pour lui permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

ART. 14. Pendant la durée des travaux de la Commission Permanente de Conciliation chacun des commissaires recevra une indemnité dont le montant sera arrêté, d'un commun accord, entre les Gouvernements danois et belge.

Chaque Gouvernement supportera ses propres frais et une part égale des frais communs de la Commission, les indemnités des commissaires étant comprises parmi ces frais communs.

ART. 15. A défaut de conciliation devant la Commission Permanente de Conciliation, la contestation sera soumise, par voie de compromis, à la Cour Permanente de Justice Internationale dans les conditions et suivant la procédure prévue par son statut.

A défaut d'accord entre les Parties sur le compromis et après un préavis d'un mois, l'une ou l'autre d'entre elles aura la faculté de porter directement, par voie de requête, la contestation devant la Cour Permanente de Justice Internationale.

The Commission shall not have power to take any decision relative to the substance of the dispute unless all the members are present.

ART. 13. The Danish and Belgian Governments undertake to facilitate the work of the Permanent Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to enable it to proceed, in their territory and in accordance with their laws, to summon and hear witnesses or experts, and to visit the localities in question.

ART. 14. During the proceedings of the Permanent Conciliation Commission each commissioner shall receive emoluments, the amount of which shall be fixed by agreement between the Danish and Belgian Governments.

Each Government shall pay its own expenses and shall contribute an equal share to the joint expenses of the Commission, the emoluments of the Commissioners being included in these joint expenses.

ART. 15. In the event of no amicable agreement being reached before the Permanent Conciliation Commission, the dispute shall be submitted by means of a special agreement to the Permanent Court of International Justice under the conditions and according to the procedure laid down by its Statute.

If the Parties cannot agree on the terms of the special agreement either of them may, after a month's notice, bring the dispute direct before the Permanent Court of International Justice by means of an application.



## PARTIE II

ART. 16. Toutes questions autres que celles visées à l'article 1er, sur lesquelles le Gouvernement danois et le Gouvernement belge seraient divisés sans pouvoir les résoudre à l'amiable par les procédés diplomatiques ordinaires, et pour lesquelles une procédure de règlement ne serait pas déjà prévue par un Traité en vigueur entre les Parties, seront soumises à la Commission Permanente de Conciliation, qui sera chargée de proposer aux Parties une solution acceptable et, dans tous les cas, de présenter un rapport.

La Procédure prévue par les articles 5 à 14 du présent Traité sera appliquée.

ART. 17. Si, dans le mois qui suivra la clôture des travaux de la Commission Permanente de Conciliation, les deux Parties ne se sont pas entendues, la question sera, à la requête de l'une ou l'autre Partie, soumise pour décision à un tribunal d'arbitrage constitué, à moins d'accord spécial entre les Parties, conformément aux dispositions de l'article 45 de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux. Ce Tribunal suivra, dans la mesure où elle s'y prête, la procédure prévue au Titre IV chapitre III de ladite Convention. Toutefois, si dans un délai de six mois à dater du jour où l'une des Parties aura adressé à l'autre une demande tendant à soumettre le différend à l'arbitrage, le compromis visé par ladite Convention de La Haye n'a pas été signé, il sera établi, à la demande de l'une des Parties, par le Tribunal Arbitral.

Le Tribunal statuera "ex aequo et bono."

## PART II

ART. 16. All questions other than those mentioned in Article 1, on which the Danish Government and the Belgian Government may differ without being able to reach an amicable solution by means of the normal methods of diplomacy, and for the settlement of which no procedure has been laid down by any other treaty in force between the Parties, shall be submitted to the Permanent Conciliation Commission, whose duty it shall be to propose to the Parties an acceptable solution, and in any case to present a report.

The procedure laid down in Articles 5 to 14 of the present Treaty shall be applicable.

ART. 17. If the two Parties have not reached an agreement within one month of the termination of the proceedings of the Permanent Conciliation Commission, the question shall, at the request of either Party, be submitted for decision to an arbitral tribunal, constituted, in the absence of any special agreement between the Parties, in accordance with the provisions of Article 45 of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes. This tribunal shall observe the procedure laid down in Part IV, Chapter III, of the said Convention so far as it is applicable. If, however, the special agreement (*compromis*) stipulated in the aforesaid Hague Convention has not been concluded within six months from the date on which one of the Parties shall have addressed to the other a request for arbitration, this agreement shall, at the request of one of the Parties, be drawn up by the arbitral tribunal.

The tribunal shall decide the matter *ex aequo et bono*.

La sentence arbitrale spécifiera, s'il y a lieu, les modalités d'exécution, notamment en fixant des délais d'exécution.

If necessary, the arbitral award shall specify the manner in which it is to be carried out, especially as regards the time-limits to be observed.

#### DISPOSITIONS GÉNÉRALES

ART. 18. S'il s'agit d'une contestation dont l'objet, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux de celle-ci, y compris les tribunaux administratifs, cette Partie pourra s'opposer à ce que le différend soit soumis à la procédure prévue par le présent Traité avant qu'un jugement passé en force de chose jugée ne soit rendu, dans des délais raisonnables, par l'autorité judiciaire nationale compétente.

#### GENERAL PROVISIONS

ART. 18. In the case of a dispute the occasion of which, according to the municipal law of one of the Parties, falls within the competence of the national courts of such Party, including the administrative tribunals, that Party may require that the dispute shall not be submitted to the procedure laid down in the present Treaty until a judgment with final effect has been pronounced, within a reasonable time, by the competent national judicial authority.

ART. 19. Les Gouvernements danois et belge s'engagent à s'abstenir, durant le cours d'une procédure ouverte en vertu des dispositions du présent Traité, de toute mesure susceptible d'avoir une répercussion préjudiciable, soit à l'exécution de l'arrêt de la Cour Permanente de Justice Internationale ou de la décision arbitrale, soit aux arrangements proposés par la Commission Permanente de Conciliation et en général à ne procéder à aucun acte, de quelque nature qu'il soit, susceptible d'aggraver ou d'étendre le différend.

ART. 19. During the course of proceedings instituted in accordance with the provisions of the present Treaty, the Danish and Belgian Governments undertake to abstain from all measures likely to have consequences prejudicial either to the execution of the decision of the Permanent Court of International Justice or of the arbitral award or to the arrangements proposed by the Permanent Conciliation Commission and, in general, to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

Dans tous les cas et notamment si la question au sujet de laquelle les Parties sont divisées résulte d'actes déjà effectués ou sur le point de l'être, la Cour Permanente de Justice Internationale statuant conformément à l'article 41 de son statut, indiquera dans le plus bref délai possible quelles mesures provisoires doivent être prises. Il appartiendra également au Tribunal

In any case, and particularly if the question on which the Parties differ arises out of acts already committed or on the point of commission, the Permanent Court of International Justice, acting in accordance with Article 41 of its Statute, shall lay down within the shortest possible time the provisional measures to be adopted. It shall similarly be the duty of the

d'Arbitrage saisi d'un différend en vertu des dispositions de l'article 17 du présent Traité, d'indiquer les mesures provisoires appropriées. Les Hautes Parties contractantes s'engagent à appliquer les mesures provisoires indiquées par la Cour ou par le Tribunal d'Arbitrage.

ART. 20. Si la sentence judiciaire ou arbitrale déclarait qu'une décision prise ou une mesure ordonnée par une autorité judiciaire ou toute autre autorité de l'un des deux Etats se trouve entièrement ou partiellement en apposition avec le droit international, et si le droit constitutionnel dudit Etat ne permettrait pas ou ne permettrait qu'imparfaitement d'effacer les conséquences de cette décision ou de cette mesure, les Parties conviennent qu'il devra être accordé par la sentence judiciaire ou arbitrale, à la Partie lésée, une satisfaction équitable d'un autre ordre.

ART. 21. Tous différends relatifs à l'interprétation et à l'application du présent Traité seront soumis à la Cour Permanente de Justice Internationale.

ART. 22. Le présent Traité sera ratifié; l'échange des ratifications aura lieu à Copenhague aussitôt que faire se pourra.

Il remplacera, entre le Danemark et la Belgique, la Convention d'Arbitrage du 26 avril 1905.

Le présent Traité est conclu pour une durée de dix ans à compter de la date de l'échange des ratifications. S'il n'est pas dénoncé six mois au moins avant l'expiration de ce terme, il demeurera en vigueur pour une nouvelle période de cinq ans et ainsi de suite.

arbitral tribunal to which a dispute is submitted under the provisions of Article 17 of the present Treaty, to lay down suitable provisional measures. The High Contracting Parties undertake to accept the provisional measures laid down by the Court or arbitral tribunal.

ART. 20. If the judicial decision or arbitral award specifies that a decision or measure of a court of law or other authority of either of the two States is wholly or in part contrary to international law, and if the constitutional law of the said State does not permit, or only partially permits, the consequences of the decision or measure in question to be annulled, the Parties agree that the judicial decision or arbitral award shall give the injured Party equitable satisfaction of another kind.

ART. 21. Any dispute arising as to the interpretation and application of this Treaty shall be submitted to the Permanent Court of International Justice.

ART. 22. The present Treaty shall be ratified, and the exchange of ratifications shall take place at Copenhagen as soon as possible.

It shall take the place of the Arbitration Convention of April 26, 1905, between Denmark and Belgium.

The present Treaty is concluded for ten years from the date of the exchange of ratifications. Unless it shall have been denounced six months before the expiration of this term, it shall remain in force for a further period of five years, and so on for successive periods of five years.

En foi de quoi les Plénipotentiaires ont signé le présent Traité.

Fait à Bruxelles, le 3 mars 1927.

E. Vandervelde

O. Krag

In faith whereof the Plenipotentiaries have signed the present Treaty.

Done at Brussels, March 3, 1927.

E. Vandervelde

O. Krag

#### PROTOCOL OF SIGNATURE

Au moment de procéder à la signature du présent Traité les Gouvernements danois et belge tiennent à constater que les engagements que stipule ce Traité ne s'appliquent qu'aux contestations qui s'élèveraient, après que celui-ci aura été ratifié, au sujet de situations ou de faits postérieurs aux ratifications.

Toutefois ne seront pas exceptées, les contestations portant sur l'interprétation de tout traité antérieur encore applicable, dont, après les ratifications du présent Traité de Conciliation de Règlement Judiciaire et d'Arbitrage, il serait fait par l'une des Parties une application que l'autre Partie jugerait non conforme à ses droits. Il en serait encore ainsi si l'application incriminée avait commencé dès avant la mise en vigueur du présent Traité de Conciliation, de Règlement Judiciaire et d'Arbitrage, et poursuivait après la mise en vigueur, étant bien entendu que les conciliateurs, les juges et les arbitres n'auront à examiner que les faits postérieurs.

En foi de quoi, les Plénipotentiaires ont signé le présent Protocole.

Fait à Bruxelles, le 3 mars 1927.

E. Vandervelde

O. Krag

At the moment of signing the present Treaty, the Danish and Belgian Governments desire to place on record that the engagements stipulated in this Treaty apply only to disputes arising after its ratifications, out of situations or events subsequent thereto.

No exception shall moreover be made in the case of disputes as to the interpretation of any previous treaty that is still applicable and which either of the Parties may, after the ratification of the present Treaty of Conciliation, Judicial Settlement and Arbitration, apply in a manner which the other Party shall consider not to be consonant with its rights. This shall also apply if the disputed application has been begun before the entry into force of the present Treaty of Conciliation, Judicial Settlement and Arbitration and continued thereafter, it being understood that the conciliators, judges and arbitrators shall only be called upon to examine events subsequent to the entry into force of the said Treaty.

In faith whereof, the Plenipotentiaries have signed the present Protocol.

Done at Brussels, March 3, 1927.

E. Vandervelde

O. Krag

## PERMANENT COMMISSION OF CONCILIATION

(Appointed March 30, 1928)

*President appointed by both Parties*ÖSTLIN UNDEÉN, Professor at the University of Upsala, former Minister for Foreign Affairs of Sweden (*Swedish*)*Members appointed by both Parties*I P A FRANÇOIS, Jurisconsult to the Dutch Ministry for Foreign Affairs (*Dutch*)EUGÈNE BORFL, Barrister, Professor at the University of Geneva, former Chairman of the Anglo-German Mixed Arbitral Tribunal (*Swiss*)*Member appointed by Belgium*HENRY ROIN, Barrister and Legal Adviser to the Belgian Ministry of Foreign Affairs (*Belgian*)*Member appointed by Denmark*SVENNING RYTTER, Danish Minister of Justice (*Danish*)

## No. 80

BELGIUM-FINLAND TREATY OF CONCILIATION,  
ARBITRATION, AND COMPULSORY  
ADJUDICATION

Signed at Stockholm March 4, 1927 ratifications exchanged November 19, 1927

Original text from Finland *Forfatningsamling* 1927 No 323,<sup>1</sup> English translation from League of Nations *Treaty Series* LXIX, 363 373*(Translation)*

Le Président de la République de Finlande et Sa Majesté le Roi des Belges

animés du désir de développer les relations amicales qui unissent les deux pays

décidés à donner, dans leurs rapports réciproques, une large application aux principes dont s'inspire la Société des Nations, ont résolu de conclure un Traité de conciliation et d'arbitrage et ont nommé à cet effet pour leurs Plénipotentiaires, savoir

His Majesty the King of the Belgians and His Excellency the President of the Republic of Finland, being desirous of developing the friendly relations which unite the two countries, and having decided that their relations with one another shall be governed in the largest possible measure by the principles upon which the League of Nations is based, have resolved to conclude a treaty of conciliation and arbitration, and for this purpose have appointed as their Plenipotentiaries

<sup>1</sup> See also League of Nations, *Treaty Series*, LXIX, 362

Le Président de la République de Finlande

Monsieur le Docteur Soderhjelm, Ministre Plénipotentiaire et Envoyé Extraordinaire de Finlande à Stockholm,

Sa Majesté le Roi des Belges

Monsieur le Baron de Groote, Son Ministre Plénipotentiaire et Envoyé Extraordinaire à Helsinki,

lesquels, après avoir échangé leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes

# PART I

ARTICLE 1 Toutes contestations entre la Finlande et la Belgique, de quelque nature qu'elles soient, au sujet desquelles les Parties se contesteront réciproquement un droit, et qui n'auraient pu être réglées à l'amiable par les procédés diplomatiques ordinaires, seront soumises pour jugement à la Cour permanente de Justice internationale, ainsi qu'il est prévu ci-après

Cet engagement ne s'applique qu'aux contestations qui s'élèveraient après la ratification du présent Traité au sujet de situations ou de faits postérieurs à cette ratification

Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres conventions en vigueur entre la Finlande et la Belgique seront réglées conformément aux dispositions de ces conventions

ART 2 Avant toute procédure devant la Cour permanente de Justice internationale, la contestation pourra être, d'un commun accord entre les Parties, soumise à fin de conciliation à une Commission internationale permanente, dite Commission permanente de concilia-

His Majesty the King of the Belgians

Baron de Groote, His Minister Plenipotentiary and Envoy Extraordinary at Helsingfors,

His Excellency the President of the Republic of Finland

Dr Soderhjelm, His Minister Plenipotentiary and Envoy Extraordinary,

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions

# PART I

ARTICLE 1 All disputes of every kind between Belgium and Finland with regard to which the Parties are in conflict as to their respective rights and which it may not have been possible to settle amicably by the normal methods of diplomacy shall be submitted for decision to the Permanent Court of International Justice as hereinafter laid down

This undertaking shall only apply to disputes arising after the ratification of the present Treaty in connection with situations or events subsequent to the said ratification

Disputes for the settlement of which a special procedure is laid down in other conventions in force between Belgium and Finland shall be settled in conformity with the provisions of those conventions

ART 2 Before any resort is made to procedure before the Permanent Court of International Justice, the dispute may, by agreement between the Parties, be submitted, with a view to amicable settlement, to a permanent international commission, styled the

tion, constituée conformément au présent Traité.

ART. 3. La Commission permanente de conciliation prévue à l'article 2 sera composée de cinq membres, qui seront désignés comme il suit, savoir: le Gouvernement finlandais et le Gouvernement belge nommeront chacun un membre de la Commission choisi parmi leurs nationaux respectifs et désigneront, d'un commun accord, les trois autres membres de la Commission parmi les ressortissants de tierces Puissances; ces trois membres de la Commission devront être de nationalité différente et, parmi eux, les Gouvernements finlandais et belge désigneront le Président de la Commission.

Les membres de la Commission sont nommés pour trois ans; leur mandat est renouvelable. Ils restent en fonctions jusqu'à leur remplacement et, dans tous les cas, jusqu'à l'achèvement de leurs travaux en cours au moment de l'expiration de leur mandat.

Il sera pourvu, dans le plus bref délai, aux vacances qui viendraient à se produire, par suite de décès, de démission ou de quelque autre empêchement, en suivant le mode fixé pour les nominations.

ART. 4. La Commission permanente de conciliation sera constituée dans les six mois qui suivront l'entrée en vigueur du présent Traité.

Si la nomination des membres de la Commission à désigner en commun n'intervenait pas dans ledit délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, le Président de la Confédération suisse sera, à défaut

Permanent Conciliation Commission, constituted in accordance with the present Treaty.

ART. 3. The Permanent Conciliation Commission mentioned in Article 2 shall be composed of five members, who shall be appointed as follows: The Belgian Government and the Finnish Government shall each nominate a member of the Commission chosen from among their respective nationals, and shall appoint, by common agreement, the three other members of the Commission from among the nationals of third Powers. These three members of the Commission must be of different nationalities, and the Belgian and Finnish Governments shall appoint the President of the Commission from among them.

The members of the Commission are appointed for three years and their mandate is renewable. Their appointment shall continue until their replacement, and in any case until the termination of the work in hand at the moment of the expiry of their mandate.

Vacancies which may occur as a result of death, resignation, or any other cause shall be filled within the shortest possible time in the manner laid down for the nominations.

ART. 4. The Permanent Conciliation Commission shall be constituted within six months from the entry into force of the present Treaty.

If the nomination of the members of the Commission to be appointed by common agreement should not have taken place within the said period, or, in the case of the filling of a vacancy, within three months from the time when the

d'autre entente, prié de procéder aux désignations nécessaires.

ART. 5. La Commission permanente de conciliation sera saisie, par voie de requête adressée au Président, par les deux Parties agissant d'un commun accord ou, à défaut, par l'une ou l'autre des Parties.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation.

Si la requête émane d'une des Parties, elle sera notifiée par celle-ci, sans délai, à la Partie adverse.

ART. 6. Dans un délai de 15 jours à partir de la date où le Gouvernement finlandais ou le Gouvernement belge aurait porté une contestation devant la Commission permanente de conciliation, chacune des Parties pourra, pour l'examen de cette contestation, remplacer le membre de la Commission qu'elle a nommé par une personne possédant une compétence spéciale dans la matière.

La Partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie; celle-ci aura, dans ce cas, la faculté d'agir de même, dans un délai de 15 jours à partir de la date où la notification lui sera parvenue.

ART. 7. La Commission permanente de conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle

seat falls vacant, the President of the Swiss Confederation shall, in the absence of any other agreement, be requested to make the necessary appointments.

ART. 5. The Permanent Conciliation Commission shall be informed by means of a request addressed to the President by the two Parties acting in agreement or, in the absence of such agreement, by one or other of the Parties.

The request, after having given a summary account of the subject of the dispute, shall contain an invitation to the Commission to take all necessary measures with a view to arriving at an amicable settlement.

If the request emanates from only one of the Parties, notification thereof shall be made without delay to the other Party.

ART. 6. Within fifteen days from the date on which the Belgian Government or the Finnish Government shall have brought a dispute before the Permanent Conciliation Commission, either Party may, for the examination of the particular dispute, replace the member whom it has appointed by a person possessing special competence in the matter.

The Party making use of this right shall immediately inform the other Party. The latter shall in that case be entitled to take similar action within fifteen days from the date on which it shall have received notification.

ART. 7. The task of the Permanent Conciliation Commission shall be to elucidate questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the Parties to an agree-



pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

A la fin de ses travaux, la Commission dressera un procès-verbal constatant, suivant le cas, soit que les Parties se sont arrangées et, s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la Commission devront, à moins que les Parties n'en conviennent différemment, être terminés dans le délai de six mois à compter du jour où la Commission aura été saisie du litige.

ART. 8. A moins de stipulation spéciale contraire, la Commission permanente de conciliation réglera elle-même sa procédure, qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la Commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du titre III (Commissions internationales d'enquête) de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 9. La Commission permanente de conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son président.

ART. 10. Les travaux de la Commission permanente de conciliation ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties.

ART. 11. Les Parties seront représentées auprès de la Commission permanente de conciliation

ment. It may, after the case has been examined, inform the Parties of the terms of settlement which seem suitable to it, and lay down a period within which they are to make their decision.

At the close of its proceedings, the Commission shall draw up a report stating, as the case may be, either that the Parties have come to an agreement and, if need be, the terms of the agreement or that it has been impossible to effect a settlement.

The proceedings of the Commission must, unless the Parties otherwise agree, be terminated within six months from the day on which the Commission was first notified of the dispute.

ART. 8. Failing any special provision to the contrary, the Permanent Conciliation Commission shall lay down its own procedure, which in any case must provide for both parties being heard. In regard to enquiries, the Commission, unless it unanimously decides otherwise, shall act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 9. The Permanent Conciliation Commission shall meet, in the absence of agreement by the Parties to the contrary, at a place selected by its President.

ART. 10. The proceedings of the Permanent Conciliation Commission shall not be public, except when a decision to that effect has been taken by the Commission with the consent of the Parties.

ART. 11. The Parties shall be represented before the Permanent Conciliation Commission by agents,

par des agents ayant mission de servir d'intermédiaire entre elles et la Commission; elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraîtra utile.

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement.

ART. 12. Sauf disposition contraire du présent Traité, les décisions de la Commission permanente de conciliation seront prises à la majorité des voix. Chaque membre disposera d'une voix; en cas de partage, la voix du président sera décisive.

La Commission ne pourra prendre des décisions portant sur le fond du différend que si tous les membres sont présents.

ART. 13. Les Gouvernements finlandais et belge s'engagent à faciliter les travaux de la Commission permanente de conciliation et, en particulier, à lui fournir, dans la plus large mesure possible, tous documents et informations utiles, ainsi qu'à user des moyens dont ils disposent pour lui permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

ART. 14. Pendant la durée des travaux de la Commission permanente de conciliation chacun des membres de la Commission recevra une indemnité dont le montant sera arrêté, d'un commun accord, par les Gouvernements finlandais et belge.

whose duty it shall be to act as intermediaries between them and the Commission. They may, moreover, be assisted by counsel and experts appointed by them for that purpose, and they may request that all persons whose evidence appears to them useful should be heard.

The Commission on its side shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties, as well as from all persons it may think useful to summon with the consent of their respective Governments.

ART. 12. Unless otherwise provided in the present Treaty, the decisions of the Permanent Conciliation Commission shall be taken by a majority vote. Each member shall have one vote. If the votes are equal, the President shall have a casting vote.

The Commission shall not have power to take any decision relative to the substance of the dispute unless all the members are present.

ART. 13. The Belgian and Finnish Governments undertake to facilitate the work of the Permanent Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to enable it to proceed, in their territory and in accordance with their laws, to summon and hear witnesses or experts, and to visit the localities in question.

ART. 14. During the proceedings of the Permanent Conciliation Commission each member of the Commission shall receive emoluments the amount of which shall be fixed by agreement between the Belgian and Finnish Governments.

Chaque Gouvernement supportera ses propres frais et une part égale des frais communs de la Commission les indemnités des membres de la Commission étant comprises parmi ces frais communs.

ART. 15. A défaut de conciliation devant la Commission permanente de conciliation, la contestation sera soumise par voie de compromis à la Cour permanente de Justice internationale dans les conditions et suivant la procédure prévue par son statut.

A défaut d'accord entre les Parties sur le compromis et après un préavis d'un mois, l'une ou l'autre d'entre elles aura la faculté de porter directement, par voie de requête, la contestation devant la Cour permanente de Justice internationale.

## PARTIE II

ART. 16. Toutes questions autres que celles visées à l'article 1:er, sur lesquelles le Gouvernement finlandais et le Gouvernement belge seraient divisés sans pouvoir les résoudre à l'amiable par les procédés diplomatiques ordinaires, et pour lesquelles une procédure de règlement ne serait pas déjà prévue par un Traité en vigueur entre les Parties, seront soumises à la Commission permanente de conciliation, qui sera chargée de proposer aux Parties une solution acceptable et, dans tous les cas, de présenter un rapport.

La procédure prévue par les articles 5 à 14 du présent Traité sera appliquée.

ART. 17. Si, dans le mois qui suivra la clôture des travaux de la Commission permanente de conciliation, les deux Parties ne se sont pas entendues, la question sera, à la

Each Government shall pay its own expenses and shall contribute an equal share to the joint expenses of the Commission, the emoluments of the members of the Commission being included in these joint expenses.

ART. 15. In the event of no amicable agreement being reached before the Permanent Conciliation Commission, the dispute shall be submitted by means of a special agreement to the Permanent Court of International Justice under the conditions and according to the procedure laid down by its Statute.

If the Parties cannot agree on the terms of the special agreement, either of them may, after a month's notice, bring the dispute direct before the Permanent Court of International Justice by means of an application.

## PART II

ART. 16. All questions other than those mentioned in Article 1, on which the Belgian Government and the Finnish Government may differ without being able to reach an amicable solution by means of the normal methods of diplomacy, and for the settlement of which no procedure has been laid down in in any other treaty in force between the Parties, shall be submitted to the Permanent Conciliation Commission, whose duty it shall be to propose to the Parties an acceptable solution, and in any case to present a report.

The procedure laid down in Articles 5 to 14 of the present Treaty shall be applicable.

ART. 17. If the two Parties have not reached an agreement within one month of the termination of the proceedings of the Permanent Conciliation Commission, the question

requête de l'une ou l'autre Partie, soumise pour décision à un tribunal d'arbitrage constitué, à moins d'accord spécial entre les Parties, conformément aux dispositions de l'article 45 de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux. Ce tribunal suivra, dans la mesure où elle s'y prête, la procédure prévue au Titre IV chapitre III de ladite Convention. Toutefois, si dans un délai de six mois à dater du jour où l'une des Parties aura adressé à l'autre une demande tendant à soumettre le différend à l'arbitrage, le compromis visé par ladite Convention de La Haye n'a pas été signé, il sera établi, à la demande de l'une des Parties par le Tribunal arbitral.

Le tribunal statuera "*ex aequo et bono*."

La sentence arbitrale spécifiera, s'il y a lieu, les modalités d'exécution, notamment en fixant des délais d'exécution.

#### DISPOSITIONS GÉNÉRALES

ART. 18. S'il s'agit d'une contestation dont l'objet, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux de celle-ci, y compris les tribunaux administratifs, cette Partie pourra s'opposer à ce que le différend soit soumis à la procédure prévue par le présent traité avant qu'un jugement passé en force de chose jugée ne soit rendu, dans des délais raisonnables, par l'autorité judiciaire nationale compétente.

ART. 19. Les Gouvernements finlandais et belge s'engagent à s'abstenir, durant le cours d'une procédure ouverte en vertu des dis-

shall, at the request of either Party, be submitted for decision to an arbitral tribunal constituted, in the absence of any special agreement between the Parties, in accordance with the provisions of Article 45 of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes. This tribunal shall observe the procedure laid down in Part IV, Chapter III, of the said Convention so far as it is applicable. If, however, the special agreement mentioned in the aforesaid Hague Convention has not been concluded within six months from the date on which one of the Parties shall have addressed to the other a request that the dispute be submitted to arbitration, this agreement shall, at the request of either of the Parties, be drawn up by the arbitral tribunal.

The tribunal shall decide the matter *ex aequo et bono*.

If necessary, the arbitral award shall specify the manner in which it is to be carried out, especially as regards the time-limits to be observed.

#### GENERAL PROVISIONS

ART. 18. In the case of a dispute the occasion of which, according to the municipal law of one of the Parties, falls within the competence of the national courts of such Party, including the administrative tribunals, that Party may require that the dispute shall not be submitted to the procedure laid down in the present Treaty until a judgment with final effect has been pronounced, within a reasonable time, by the competent national judicial authority.

ART. 19. During the course of proceedings instituted under the provisions of the present Treaty, the Belgian and Finnish Govern-

positions du présent Traité, de toute mesure susceptible d'avoir une répercussion préjudiciable, soit à l'exécution de l'arrêt de la Cour permanente de Justice internationale ou de la décision arbitrale, soit aux arrangements proposés par la Commission permanente de conciliation et en général à ne procéder à aucun acte, de quelque nature qu'il soit, susceptible d'aggraver ou d'étendre le différend.

Dans tous les cas et notamment si la question au sujet de laquelle les Parties sont divisées résulte d'actes déjà effectués ou sur le point de l'être, la Cour permanente de Justice internationale statuant conformément à l'article 41 de son statut, indiquera dans le plus bref délai possible quelles mesures provisoires doivent être prises. Il appartiendra également au Tribunal d'arbitrage saisi d'un différend en vertu des dispositions de l'article 17 du présent Traité d'indiquer les mesures provisoires appropriées. Les Hautes Parties Contractantes s'engagent à appliquer les mesures provisoires indiquées par la Cour ou par le Tribunal d'arbitrage.

ART. 20. Si la sentence judiciaire ou arbitrale déclarait qu'une décision prise ou une mesure ordonnée par une autorité judiciaire ou toute autre autorité de l'un des deux Etats se trouve entièrement ou partiellement en opposition avec le droit international, et si le droit constitutionnel dudit Etat ne permettait pas ou ne permettait qu'imparfaitement d'effacer les conséquences de cette décision ou de cette mesure, les parties conviennent qu'il devra être accordé par la sentence judiciaire ou arbitrale, à la Partie lésée, une satisfaction équitable d'un autre ordre.

ments undertake to abstain from all measures likely to have consequences prejudicial either to the execution of the judgment of the Permanent Court of International Justice or of the arbitral award, or to the arrangements proposed by the Permanent Conciliation Commission, and, in general, to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

In any case, and particularly if the question on which the Parties differ arises out of acts already committed or on the point of commission, the Permanent Court of International Justice, acting in accordance with Article 41 of its Statute, shall lay down within the shortest possible time the provisional measures to be adopted. It shall similarly be the duty of the arbitral tribunal, to which a dispute is submitted under the provisions of Article 17 of the present Treaty, to lay down suitable provisional measures. The High Contracting Parties undertake to accept the provisional measures laid down by the Court or arbitral tribunal.

ART. 20. If the judicial decision or arbitral award specifies that a decision or measure of a court of law or other authority of either of the two States is wholly or in part contrary to international law, and if the constitutional law of the said State does not permit, or only partially permits, the consequences of the decision or measure in question to be annulled, the Parties agree that the judicial decision or arbitral award shall give the injured Party equitable satisfaction of another kind.

ART. 21. Tous différends relatifs à l'interprétation et l'application du présent Traité seront soumis à la Cour permanente de Justice internationale.

ART. 22. Le présent Traité sera ratifié, en ce qui concerne la Belgique, par Sa Majesté le Roi des Belges après approbation des Chambres. L'échange des ratifications aura lieu à Stockholm aussitôt que faire se pourra.

Le traité est conclu pour une durée de dix ans à compter de la date de l'échange des ratifications. S'il n'est pas dénoncé six mois au moins avant l'expiration de ce terme, il demeurera en vigueur pour une nouvelle période de cinq ans et ainsi de suite.

En foi de quoi les Plénipotentiaires ont signé le présent Traité.

Fait à Stockholm, le 4 mars 1927.

Werner Söderhjelm  
P. de Groote

ART. 21. Any dispute arising as to the interpretation and application of this Treaty shall be submitted to the Permanent Court of International Justice.

ART. 22. The present Treaty shall be ratified by His Majesty the King of the Belgians after approval by the Chambers, and by His Excellency the President of the Republic of Finland. The exchange of the ratifications shall take place at Stockholm as soon as possible.

The present Treaty is concluded for ten years from the date of the exchange of ratifications. Unless it shall have been denounced at least six months before the expiration of this term, it shall remain in force for a further period of five years, and similarly for successive periods of five years.

In faith whereof the Plenipotentiaries have signed the present Treaty.

Done at Stockholm, the fourth day of March, One thousand nine hundred and twenty-seven.

P. de Groote  
Dr. Söderhjelm

# PERMANENT COMMISSION OF CONCILIATION

(Appointed May 19, 1928)

## *President appointed by both Parties*

ANDRÉ MERCIER, Professor at the University of Lausanne. (*Swiss.*)

## *Members appointed by both Parties*

W. C. BEUCKER ANDRIJAF, Chief of Section in the Dutch Ministry for Foreign Affairs. (*Dutch.*)

COUNT MICHAEL ROSTWOROWSKI, Professor at the University of Cracow. (*Polish.*)

## *Member appointed by Belgium*

CHARLES DE VISSCHIER, Professor at the University of Ghent, Legal Adviser to the Belgian Ministry of Foreign Affairs. (*Belgian.*)

## *Member appointed by Finland*

RAFAEL ERICH, Professor at the University of Helsingfors. (*Finnish.*)

## No. 81

**HUNGARY-ITALY: TREATY OF CONCILIATION,  
ARBITRATION, AND COMPULSORY  
ADJUDICATION**

Signed at Rome April 5, 1927; ratifications exchanged August 8, 1927.

Original text and English translation from League of Nations, *Treaty Series*, LXVII, 400-409.

(Translation)

Sa Majesté le Roi d'Italie et Son Altesse Sérénissime le Gouverneur du Royaume de Hongrie, ayant constaté la concordance de nombreux intérêts communs aux deux nations, animés du sincère désir d'établir entre leurs Etats un régime de véritable amitié et soucieux de joindre leurs efforts voués au maintien de la paix et de l'ordre pour donner ainsi aux deux peuples une nouvelle garantie de leur essor futur, ont convenu de stipuler à cette fin le présent traité d'amitié, de conciliation et d'arbitrage, et ont désigné leurs plénipotentiaires, savoir:

Sa Majesté le Roi d'Italie:

Son Excellence le chevalier Benito Mussolini, chef du gouvernement, premier ministre secrétaire d'Etat, ministre secrétaire d'Etat pour les Affaires étrangères;

Son Altesse Sérénissime le Gouverneur du Royaume de Hongrie:

Son Excellence le comte Etienne Bethlen, président du Conseil des Ministres royal hongrois;

Lesquels, après avoir pris connaissance de leurs pleins pouvoirs reconnus en bonne et due forme, sont convenus des dispositions suivantes:

**ARTICLE 1<sup>er</sup>.** Il y aura paix constante et amitié perpétuelle entre

His Majesty the King of Italy and His Most Serene Highness the Regent of the Kingdom of Hungary, having noted the concordance of numerous interests common to both nations, and being desirous of establishing a basis of sincere friendship between their States, and of combining their efforts with a view to the maintenance of peace and order, so as to give to the two peoples a fresh guarantee of future development, have agreed to conclude for this purpose the present treaty of friendship, conciliation and arbitration, and have appointed as their Plenipotentiaries:

His Majesty the King of Italy:

His Excellency the Chevalier Benito Mussolini, Head of the Government, Prime Minister and Secretary of State, Minister and Secretary of State for Foreign Affairs;

His Most Serene Highness the Regent of the Kingdom of Hungary:

His Excellency Count Stephen Bethlen, President of the Royal Hungarian Council of Ministers;

Who, having communicated their full powers found in good and due form, have agreed upon the following provisions:

**ARTICLE I.** There shall be constant peace and perpetual friend-

le Royaume d'Italie et le Royaume de Hongrie.

ART. 2. Les Hautes Parties contractantes s'engagent à soumettre à une procédure de conciliation et, le cas échéant, à une procédure d'arbitrage les différends de quelque nature qu'ils soient, qui s'élèveraient entre elles et n'auraient pu être résolus par la voie diplomatique dans un délai raisonnable.

Cette disposition ne s'applique pas aux différends nés de faits qui sont antérieurs au présent traité et qui appartiennent au passé.

Les différends pour la solution desquels une procédure spéciale est prévue par d'autres conventions, en vigueur entre les Hautes Parties contractantes, seront réglés conformément aux dispositions de ces conventions.

ART. 3. A défaut de conciliation, chacune des Hautes Parties contractantes pourra demander que le litige soit soumis à l'arbitrage, à condition qu'il s'agisse d'un différend d'ordre juridique.

ART. 4. Les modalités de la procédure de conciliation et d'arbitrage font objet d'un protocole de procédure annexé à ce traité.

ART. 5. Le présent traité sera ratifié et l'échange des ratifications aura lieu à Rome aussitôt que faire se pourra.

Le traité est conclu pour une durée de dix années à compter de l'échange des ratifications. S'il n'est pas dénoncé une année au moins avant l'expiration de ce terme, il demeurera en vigueur pour une nouvelle période de dix années et ainsi de suite.

En foi de quoi les plénipotentiaires ont signé le présent traité.

ship between the Kingdom of Italy and the Kingdom of Hungary.

ART. 2. The High Contracting Parties undertake to submit to a procedure of conciliation, or, if necessary, to arbitration, all disputes of any nature whatever which may arise between them and which it may not have been possible to settle within a reasonable time by the methods of diplomacy.

This provision does not apply to disputes arising out of events prior to the present Treaty and belonging to the past.

Disputes for the settlement of which a special procedure is laid down in other conventions in force between the High Contracting Parties shall be settled in conformity with the provisions of those conventions.

ART. 3. Failing conciliation, each of the High Contracting Parties may request that the dispute be submitted to arbitration, provided that the dispute is of a legal nature.

ART. 4. The rules regarding the procedure of conciliation and arbitration are laid down in a protocol of procedure annexed to the present Treaty.

ART. 5. The present Treaty shall be ratified and the instruments of ratification shall be exchanged at Rome as soon as possible.

The treaty is concluded for a period of ten years from the date of the exchange of ratifications. Unless denounced at least one year before the expiration of this period, it shall remain in force for a further period of ten years, and similarly thereafter.

In faith whereof, the Plenipotentiaries have signed the present Treaty.



Fait à Rome, le cinq avril mil neuf cent vingt-sept.

Benito Mussolini  
Bethlen István

Done at Rome, the fifth day of April, one thousand nine hundred and twenty-seven.

Benito Mussolini  
Bethlen István

### PROTOCOL

*Annexe au Traité d'amitié, de Conciliation et d'arbitrage entre la Hongrie et l'Italie et réglant la procédure de conciliation et d'arbitrage*

*annexed to the Treaty of Friendship, Conciliation and Arbitration between Italy and Hungary, and governing the Procedure of Conciliation and Arbitration*

ARTICLE 1<sup>er</sup>. Lorsqu'il s'agit d'un différend qui, aux termes de la législation intérieure d'une des Parties contractantes, relève de la compétence des tribunaux nationaux de celle-ci, la Partie défenderesse peut s'opposer à ce qu'il soit soumis à une procédure de conciliation ou d'arbitrage avant qu'un jugement définitif ait été rendu par l'autorité judiciaire compétente. La demande de conciliation doit, dans ce cas, être formée une année, au plus tard, à compter de ce jugement.

ARTICLE 1. In the case of a dispute which according to the domestic legislation of one of the Contracting Parties comes within the jurisdiction of the Courts of that Party, the defendant Party may oppose the submission of the dispute to a procedure of conciliation or arbitration until a final judgment has been given by the competent judicial authority. In this case the request for conciliation must be made within a year at most from the date of such judgment.

ART. 2. La conciliation sera confiée à une Commission de conciliation composée de trois membres, qui seront désignés, dans chaque cas particulier, comme il suit, savoir: Les Hautes Parties contractantes nommeront chacune un commissaire choisi parmi leurs nationaux respectifs et désigneront d'un commun accord le président de la commission parmi les ressortissants de tierces Puissances.

ART. 2. The conciliation shall be entrusted to a Conciliation Commission consisting of three members, who shall be appointed in each particular case as follows: The High Contracting Parties shall each appoint one Commissioner chosen from among their respective nationals and shall appoint the President of the Commission by common agreement from among the nationals of third Powers.

Si, dans un délai de trois mois, à compter du jour où l'une des Hautes Parties contractantes aura notifié à l'autre son intention de recourir à la procédure de conciliation, la nomination du commissaire de la Partie adverse ou la désignation du président de la commission, d'un commun accord, par les Hautes Parties contractantes n'est pas intervenue, le président

If within three months of the date when one of the Contracting Parties shall have notified to the other its intention of resorting to the procedure of conciliation, the Commissioner of the opposing Party has not been nominated or the President of the Commission has not been appointed by common agreement between the High Contracting Parties, the President of

de la Confédération suisse sera prié de procéder aux désignations nécessaires.

ART. 3. La Commission de conciliation sera saisie par voie de requête adressée au président par les deux Hautes Parties contractantes, agissant d'un accord ou, à défaut, par l'une ou l'autre Partie. La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la commission de procéder à toutes mesures propres à conduire à une conciliation.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à la Partie adverse.

ART. 4. La Commission de conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles, par voie d'enquête ou autrement, et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

A la fin de ses travaux, la commission dressera un procès verbal constatant, suivant les cas, soit que les Parties se sont arrangées et, s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la commission devront, à moins que les Parties en conviennent différemment, être terminés dans le délai de six mois à compter du jour où la commission aura été saisie du litige.

ART. 5. A moins de stipulation spéciale contraire, la Commission de conciliation réglera elle-même

the Swiss Confederation shall be asked to make the necessary appointments.

ART. 3. The Conciliation Commission shall be informed by means of a request addressed to the President by the two High Contracting Parties acting in agreement, or, in the absence of such agreement, by one or other of the Parties. The request, after having given a summary account of the subject of the dispute, shall contain an invitation to the Commission to take all necessary measures with a view to arriving at an amicable settlement.

If the request emanates from only one of the Parties, notification thereof shall be made without delay by that Party to the other Party.

ART. 4. The task of the Conciliation Commission shall be to elucidate the questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of settlement which it deems suitable, and lay down a period within which they are to take their decision.

At the close of its work the Commission shall draw up a report stating, as the case may be, either that the Parties have come to an agreement and, if so, the terms of the agreement, or that the Parties have been unable to agree.

The work of the Commission must, unless the Parties agree otherwise, be terminated within six months from the date on which the Commission shall have been notified of the dispute.

ART. 5. Failing any special provision to the contrary, the Conciliation Commission shall lay down

sa procédure, qui, dans tous les cas, devra être contradictoire. En matière d'enquête, la commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du Titre III (Commissions internationales d'enquête) de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 6. La Commission de conciliation se réunira, sauf accord contraire entre les Hautes Parties contractantes, au lieu désigné par son président.

ART. 7. Les travaux de la Commission de conciliation ne seront publics qu'en vertu d'une décision prise par la commission avec l'assentiment des Hautes Parties contractantes.

ART. 8. Les Parties seront représentées auprès de la Commission de conciliation par des agents ayant mission de servir d'intermédiaires entre elles et la commission; elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraîtrait utile.

La commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties, ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur gouvernement.

ART. 9. Sauf disposition contraire du présent protocole, les décisions de la Commission de conciliation seront prises à la majorité des voix.

ART. 10. Les Hautes Parties contractantes s'engagent à faciliter les travaux de la Commission de

its own procedure, which in every case must provide for both Parties being heard. In regard to enquiries, the Commission, unless it unanimously decides otherwise, shall act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 6. The Conciliation Commission shall meet, in the absence of agreement by the High Contracting Parties to the contrary, at a place selected by its President.

ART. 7. The work of the Conciliation Commission shall not be public, except when a decision to that effect has been taken by the Commission with the consent of the High Contracting Parties.

ART. 8. The Parties shall be represented before the Conciliation Commission by agents whose duty it shall be to act as intermediaries between the Parties and the Commission; they may, moreover, be assisted by counsel and experts appointed by them for the purpose, and may request that all persons whose evidence appears to them useful shall be heard.

The Commission shall on its side be entitled to request oral explanations from the agents, counsel and experts of the two Parties, as well as from all persons it may think useful to summon with the consent of their Government.

ART. 9. Unless otherwise provided in the present Protocol, the decisions of the Conciliation Commission shall be taken by a majority vote.

ART. 10. The High Contracting Parties undertake to facilitate the labours of the Conciliation Com-

conciliation et, en particulier, à lui fournir, dans la plus large mesure possible, tous documents et informations utiles, ainsi qu'à user des moyens dont elles disposent pour leur permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

ART. 11. Les Hautes Parties contractantes établiront, dans chaque cas particulier, un compromis spécial déterminant nettement l'objet du différend, la composition et les compétences particulières du tribunal, ainsi que toutes autres conditions arrêtées entre elles.

Le compromis sera établi par échange de notes entre les gouvernements des Parties contractantes.

ART. 12. Sauf convention contraire, la procédure arbitrale sera réglée par les articles 51 à 85 de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 13. Les dispositions dont à l'article 3 du Traité d'amitié, etc., ne portent pas atteinte à la faculté de soumettre un différend d'ordre juridique, par voie de compromis, à la Cour permanente de Justice internationale, dans les conditions et suivant la procédure prévue par son Statut.

ART. 14. Si le compromis prévu par l'article 11, resp., 13 n'est pas établi dans les six mois qui suivront la notification d'une demande d'arbitrage, chacune des Parties pourra déférer, par voie de simple requête, le différend à la Cour permanente de Justice internationale.

ART. 15. La sentence rendue par le tribunal sera exécutée de bonne foi par les Parties.

mission, and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to enable it to proceed, in their territory and in accordance with their laws, to the summoning and hearing of witnesses or experts and to visit the localities in question.

ART. 11. In each particular case, the High Contracting Parties shall draw up a special agreement, stating clearly the subject of the dispute, the composition and particular competence of the tribunal, and any other conditions fixed between themselves.

The special agreement shall be established by an exchange of notes between the Governments of the Contracting Parties.

ART. 12. In the absence of agreement to the contrary, the arbitral procedure shall be governed by Articles 51-85, of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 13. The provisions of Article 3 of the Treaty of Friendship, etc., do not affect the right of the Parties to submit a legal dispute by means of a special agreement to the Permanent Court of International Justice under the conditions and according to the procedure laid down in its Statute.

ART. 14. If the special agreement provided for in Article 11 or 13 is not drawn up within six months following the notification of a request for arbitration, either Party may bring the dispute before the Permanent Court of International Justice by a simple request.

ART. 15. The award given by the Tribunal shall be executed by the Parties in good faith.

ART. 16. Les Hautes Parties contractantes s'abstiendront, durant le cours de la procédure de conciliation ou d'arbitrage, de toute action ou mesure pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission de conciliation ou sur l'exécution de la sentence.

ART. 17. Chaque Partie supportera ses propres frais et une partie égale des frais de la procédure de conciliation et d'arbitrage.

ART. 18. Les contestations qui surgiraient au sujet de l'interprétation ou de l'exécution du présent traité seront, sauf convention contraire, soumises directement à l'arbitrage.

Rome, le cinq avril mil neuf cent vingt-sept.

Benito Mussolini  
Bethlen István

ART. 16. During the procedure of conciliation or arbitration the High Contracting Parties shall abstain from all action or measures which might prejudicially affect the acceptance of the proposals of the Conciliation Commission or the execution of the award.

ART. 17. Each Party shall bear its own costs and half the costs of the procedure of conciliation or arbitration.

ART. 18. In the absence of agreement to the contrary, any disputes which may arise with regard to the interpretation or the application of the present Treaty shall be submitted direct to arbitration.

Rome, the fifth day of April, One thousand nine hundred and twenty-seven.

Benito Mussolini  
Bethlen István

#### COMMISSION OF CONCILIATION

Not permanent: a Commission of three members will be appointed for each case.

### No. 82

#### THE NETHERLANDS-SWEDEN: TREATY OF CONCILIATION

Signed at the Hague May 21, 1927; ratifications exchanged July 27, 1928.

Original text communicated by the Legation of the Netherlands at Washington, D. C.;<sup>1</sup> English translation from League of Nations, *Treaty Series*, LXXIX, 149-155.

(Translation)

Sa Majesté la Reine des Pays-Bas et Sa Majesté le Roi de Suède, animés du désir de resserrer les liens d'amitié qui unissent les Pays-Bas et la Suède, et de favoriser le règlement pacifique par voie de conciliation des différends qui pour-

His Majesty the King of Sweden and Her Majesty the Queen of the Netherlands, being desirous of strengthening the ties of friendship which unite Sweden and the Netherlands and of promoting the pacific settlement, by conciliation, of any

<sup>1</sup> See also League of Nations, *Treaty Series*, LXXIX, 148.

raient naître entre les deux Pays et qui ne seraient pas résolus d'autre manière,

ont résolu de conclure à cet effet un traité et ont nommé pour Leurs Plénipotentiaires, savoir,

Sa Majesté la Reine des Pays-Bas: Son Excellence Jonkheer F. Beelaerts van Blokland, Son Ministre des Affaires Etrangères;

Sa Majesté le Roi de Suède: Son Excellence Monsieur A. J. P. de Adlercreutz, Son Envoyé Extraordinaire et Ministre Plénipotentiaire à La Haye,

lesquels, après s'être communiqué leurs pleins pouvoirs respectifs, trouvés en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Tout différend, de quelque nature qu'il soit, qui s'élèverait entre les Hautes Parties contractantes et n'aurait pu être résolu par la voie diplomatique dans un délai raisonnable et qui ne serait pas susceptible d'un règlement judiciaire ou arbitral conformément à l'article 36, alinéa 2, du Statut de la Cour permanente de Justice internationale, ou conformément à toute autre convention internationale en vigueur entre les Hautes Parties contractantes, sera soumis, à la demande d'une ou des deux Parties, à une Commission permanente de conciliation, aux fins d'examen et de rapport.

Les Hautes Parties contractantes peuvent convenir qu'un différend qui serait susceptible d'un règlement judiciaire ou arbitral, soit préalablement déféré à la procédure de conciliation. Si, dans un différend de cette nature, l'une des Parties n'accepte pas les propositions de la Commission dans un délai raisonnable, chacune d'elles

disputes which may arise between the two countries and are not settled in some other manner, have decided to conclude a treaty for that purpose, and have appointed as their Plenipotentiaries:

His Majesty the King of Sweden:

His Excellency M. A. J. P. de Adlercreutz, His Envoy Extraordinary and Minister Plenipotentiary at The Hague;

Her Majesty the Queen of the Netherlands:

His Excellency Jonkheer F. Beelaerts van Blokland, Her Minister for Foreign Affairs;

Who, after having communicated their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1. Any dispute of whatsoever nature arising between the High Contracting Parties which it may not have been possible to settle through the diplomatic channel within a reasonable period, and which is not capable of judicial or arbitral settlement in accordance with Article 36, paragraph 2, of the Statute of the Permanent Court of International Justice or in conformity with any other international convention in force between the High Contracting Parties, shall be submitted, at the request of either or both of the Parties, to a permanent conciliation commission for examination and report.

The High Contracting Parties may agree that a dispute which is capable of judicial or arbitral settlement shall first be submitted to the procedure of conciliation. If in any dispute of this nature one of the Parties does not accept the Commission's proposals within a reasonable period, either of them may submit the dispute to the

pourra soumettre le différend à la Cour permanente de Justice internationale.

ART. 2. La Commission permanente de conciliation se compose de cinq membres.

Les Hautes Parties contractantes nomment chacune un membre à leur gré et désignent les trois autres d'un commun accord. Ces trois membres ne doivent ni être des ressortissants des Etats contractants, ni avoir leur domicile sur leur territoire ou se trouver ou s'être trouvés à leur service.

Le Président de la Commission est nommé d'un commun accord parmi les membres désignés en commun.

La Commission sera constituée dans les six mois qui suivront l'échange des ratifications du présent traité.

Si la nomination des membres à désigner en commun ou du président n'intervient pas dans les six mois à compter de l'échange des ratifications ou, en cas de retraite ou de décès, dans les deux mois à compter de la vacance du siège, le Président de la Confédération Suisse sera prié, au besoin par une seule des Parties, de procéder à ces nominations.

ART. 3. Les membres de la Commission sont nommés pour trois ans. Sauf accord contraire entre les Hautes Parties contractantes, ils ne pourront être révoqués pendant la durée de leur mandat. En cas de décès ou de retraite d'un membre, il devra être pourvu à son remplacement pour le reste de la durée de son mandat.

Si le mandat d'un membre désigné d'un commun accord expire sans qu'aucune des Parties s'oppose à son renouvellement, le mandat est censé renouvelé pour une

Permanent Court of International Justice.

ART. 2. The Permanent Conciliation Commission shall be composed of five members.

Each High Contracting Party shall appoint one member of its own choosing, the other three being selected by agreement. The latter may not be nationals of the Contracting States, nor may they be domiciled in their territory or be or have been employed in their service.

The President of the Commission shall be appointed by agreement from among the jointly selected members.

The Commission shall be set up within six months of the exchange of ratifications of the present Treaty.

If the appointment of the members to be nominated jointly or the appointment of the President is not made within six months after the exchange of ratifications, or, in case of resignation or death, within two months after the vacancy occurs, the President of the Swiss Confederation shall be requested, if necessary by one of the Parties only, to make the appointments in question.

ART. 3. The members of the Commission shall be appointed for three years. Their appointment shall not be revoked during the term of their mandate unless the High Contracting Parties decide otherwise. In the event of the death or resignation of a member, arrangements shall be made to replace him for the remainder of his mandate.

If the mandate of a member selected by agreement expires and if neither Party is opposed to its renewal, it shall be deemed to be re-

nouvelle période de trois ans. De même, si, à l'expiration du mandat d'un membre désigné par l'une des Parties, cette Partie n'a pas pourvu à son remplacement, son mandat sera censé renouvelé pour trois ans.

Un membre dont le mandat expire pendant la durée d'une procédure en cours, continue à prendre part à l'examen du différend jusqu'à clôture de la procédure.

ART. 4. La Commission de conciliation déterminera son siège. Elle pourra en décider librement le transfert.

ART. 5. Dans les quinze jours qui suivent la notification d'une demande de conciliation à la Commission permanente, chacune des Hautes Parties contractantes pourra remplacer le membre librement désigné par elle par une personne possédant une compétence spéciale dans la matière qui fait l'objet du différend.

La Partie qui entendrait user de ce droit, en avertira immédiatement la Partie adverse; dans ce cas, celle-ci pourra user du même droit dans un délai de quinze jours à compter de la notification qu'elle a reçue.

Au cas où l'un des membres de la Commission de conciliation désignés en commun par les Parties contractantes serait momentanément empêché de prendre part aux travaux de la Commission par suite de maladie ou de toute autre circonstance, les Parties s'entendront pour désigner un suppléant s'il y a lieu, qui siégera temporairement à sa place.

Si la désignation de ce suppléant n'intervient pas dans un délai de trois mois à compter de la vacance temporaire du siège, le Président

newed for a further period of three years. Similarly, if on the expiry of the mandate of a member appointed by one of the Parties, no arrangements have been made by that Party to replace him, his mandate shall be deemed to be renewed for three years.

A member whose mandate expires while proceedings are in progress shall continue to take part in the examination of the dispute until the close of the proceedings.

ART. 4. The Conciliation Commission shall fix its own meeting place and shall be at liberty to change it.

ART. 5. Within a fortnight following the notification of a request for conciliation to the Permanent Commission, either of the High Contracting Parties may replace the member of its own choosing by a person possessing special competence in the matter which forms the subject of the dispute.

If either Party intends to make use of this right, it shall immediately notify the other Party. In this case the latter may avail itself of the same right within a fortnight after receiving the notification.

Should any member of the Conciliation Commission jointly selected by the Contracting Parties be temporarily prevented from taking part in the Commission's work by illness or for any other reason, the Parties shall if necessary jointly select a substitute, who will sit temporarily in his place.

If the appointment of this substitute is not made within three months from the time when the temporary vacancy occurs, the



de la Confédération Suisse sera prié par les deux Parties ou l'une d'elles de le désigner.

Chaque Partie se réserve de nommer immédiatement un suppléant pour remplacer temporairement le membre permanent désigné par elle qui, par suite de maladie ou de toute autre circonstance, se trouverait momentanément empêché de prendre part aux travaux de la Commission. La Partie qui entendrait user de ce droit, en avertira immédiatement la Partie adverse.

ART. 6. La Commission de conciliation a pour tâche d'examiner tout différend qui lui serait soumis par les Hautes Parties contractantes, et de rédiger un rapport qui déterminera l'état des faits et contiendra, toutes les fois que les circonstances le permettront, des propositions en vue du règlement du différend.

ART. 7. La Commission de conciliation est saisie sur requête adressée à son président par les deux Hautes Parties contractantes ou par l'une d'entre elles. Dans ce dernier cas, notification de la requête sera faite en même temps à l'autre Partie.

ART. 8. Les Hautes Parties contractantes ont le droit de nommer auprès de la Commission des agents spéciaux qui serviront, en même temps, d'intermédiaires entre elles et la Commission.

ART. 9. Les Hautes Parties contractantes s'engagent à faciliter, dans la plus large mesure possible, les travaux de la Commission et, en particulier, à user de tous les moyens dont elles disposent, d'après leur législation intérieure, pour lui permettre de procéder, sur leur territoire, à la citation et à l'audition de témoins ou d'experts ainsi qu'à des descentes sur les lieux.

President of the Swiss Confederation shall be requested by either or both of the Parties to make the appointment.

Either Party may appoint forthwith a substitute to replace temporarily the permanent member of its own choosing, if as a result of illness or for any other reason the latter is temporarily prevented from taking part in the Commission's work. If either Party intends to make use of this right, it shall immediately notify the other Party.

ART. 6. The task of the Conciliation Commission shall be to examine any dispute which may be submitted to it by the High Contracting Parties, and to draw up a report which shall determine the facts of the case and, whenever circumstances permit, shall contain proposals for the settlement of the dispute.

ART. 7. The Conciliation Commission shall be informed by means of a request addressed to its President by both High Contracting Parties or by either of them. In the latter case, the request shall be notified at the same time to the other Party.

ART. 8. The High Contracting Parties shall be entitled to appoint to the Commission special agents, who will also serve as intermediaries between them and the Commission.

ART. 9. The High Contracting Parties undertake to give the Commission all possible assistance in its work and, in particular, to employ all the means at their disposal, in accordance with their domestic legislation, to allow it to proceed in their territory to the summoning and hearing of witnesses or experts, and to visit the localities in question. The commission shall decide

La Commission décidera si la production des preuves aura lieu en séance plénière ou devant un ou plusieurs de ceux parmi ses membres qui ont été désignés en commun.

ART. 10. Les délibérations de la Commission ont lieu à huis clos, à moins que la Commission, d'accord avec les Parties, n'en décide autrement.

ART. 11. La procédure devant la Commission est contradictoire.

La Commission réglera elle-même la procédure, en tenant compte, sauf décision contraire prise à l'unanimité, des dispositions contenues au titre III de la Convention de La Haye pour le règlement pacifique des conflits internationaux du 18 octobre 1907.

ART. 12. Sauf disposition contraire du présent traité, les décisions de la Commission sont prises à la majorité simple des voix.

ART. 13. La Commission présentera son rapport dans les six mois à compter du jour où elle aura été saisie du différend, à moins que les Hautes Parties contractantes ne décident d'un commun accord d'abrégier ou de proroger ce délai. La Commission, de son côté, a le droit de proroger ce délai une seule fois. Une fois la procédure commencée, il ne sera plus loisible aux Hautes Parties contractantes de l'abrégier.

L'avis motivé des membres restés en minorité sera consigné dans le rapport.

Un exemplaire du rapport sera remis à chacune des Parties.

Le rapport n'a ni en ce qui concerne l'exposé des faits, ni en ce qui concerne les considérations juridiques, un caractère obligatoire.

whether evidence shall be given in a plenary meeting or before one or more of the members jointly selected.

ART. 10. The deliberations of the Conciliation Commission shall be held in private unless, in agreement with the Parties, the Commission decides otherwise.

ART. 11. In proceedings before the Commission both parties shall be heard.

The Commission shall lay down its own procedure, regard being had, unless it decides unanimously to the contrary, to the provisions contained in Chapter III of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 12. Unless otherwise provided in the present Treaty, the Commission shall take its decisions by a simple majority vote.

ART. 13. The Commission shall present its report within six months from the date on which the dispute was submitted to it, unless the High Contracting Parties agree to shorten or extend this period. The Commission for its part, shall have the right to extend this period once only. As soon as the procedure has begun, the High Contracting Parties shall no longer be permitted to shorten it.

The report shall contain the reasoned opinion of the members who form the minority.

A copy of the report shall be sent to each Party.

The report shall not be binding as regards either the statement of facts or the legal considerations.

A la communication du rapport, la Commission peut suggérer aux deux Parties de faire savoir, dans un délai à indiquer dans le rapport, si et dans quelle mesure elles reconnaissent comme exactes les constatations du rapport et acceptent les propositions y contenues.

Il appartient aux Parties de se mettre d'accord sur le point de savoir si le rapport sera, oui ou non, publié immédiatement. Au cas où elles ne parviendraient pas à cet accord, la Commission, de son côté, peut faire procéder, pour des raisons spéciales, à une prompte publication.

ART. 14. Pendant la durée effective de la procédure, les membres de la Commission reçoivent une indemnité dont le montant sera arrêté entre les Hautes Parties contractantes.

Chaque Partie supporte ses propres frais et une part égale des frais de la Commission.

ART. 15. Durant le cours de la procédure de conciliation, les Hautes Parties contractantes s'abstiendront de toute mesure pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission permanente de conciliation.

ART. 16. Le présent traité sera ratifié et les instruments de ratification en seront échangés à Stockholm dans le plus bref délai possible.

Le traité est conclu pour la durée de dix ans à compter de l'échange des instruments de ratification. S'il n'est pas dénoncé six mois au moins avant l'expiration de ce terme, il demeure en vigueur pour une nouvelle période de dix ans, et ainsi de suite.

Si une procédure de conciliation est pendante lors de l'expiration du

When the report is communicated, the Commission may suggest to the two Parties that, within a period to be stated in the report, they should make known whether and to what extent they agree with the findings of the report and accept the proposals contained therein.

It shall be for the Parties to agree as to whether the report shall or shall not be immediately published. Should they not arrive at such an agreement, the Commission may itself, for special reasons, order publication without delay.

ART. 14. For the actual duration of the procedure the members of the Conciliation Commission shall receive an allowance to be fixed by arrangement between the High Contracting Parties.

Each Party shall bear its own costs and half the costs of the Commission.

ART. 15. During the procedure of conciliation, the High Contracting Parties shall abstain from all measures which might prejudicially affect the acceptance of the proposals of the Permanent Conciliation Commission.

ART. 16. The present Treaty shall be ratified and the instruments of ratification shall be exchanged at Stockholm as soon as possible.

The Treaty is concluded for a period of ten years from the exchange of the instruments of ratification. Unless denounced at least six months before the expiration of that period, it shall remain in force for a further period of ten years, and similarly thereafter.

If conciliation proceedings are pending at the time when the

présent traité, elle suivra son cours conformément aux dispositions du présent traité ou de toute autre convention que les Hautes Parties contractantes seraient convenues de lui substituer.

En foi de quoi, les Plénipotentiaires susnommés ont signé le présent traité et y ont apposé leurs cachets.

Fait, en double, à La Haye, le 21 mai 1927.

Beelaerts van Blokland  
Adlercreutz

present Treaty expires, they shall be continued in accordance with the provisions of the present Treaty or of any other convention which the High Contracting Parties may have agreed to substitute therefor.

In faith whereof, the above-mentioned Plenipotentiaries have signed the present Treaty and have thereto affixed their seals.

Done, in duplicate, at the Hague, May 21, 1927.

Adlercreutz  
Beelaerts van Blokland

#### PERMANENT COMMISSION OF CONCILIATION

*President appointed by both Parties*

C. MOLTKE. (*Danish.*)

*Members appointed by both Parties*

JULES JUSSERAND. (*French.*)

SIR JAMES RENNELL RODD. (*British.*)

*Member appointed by the Netherlands*

H. COLIJN. (*Dutch.*)

*Member appointed by Sweden*

LARS BIRGER EKEBERG. (*Swedish.*)

### No. 83

#### CHILE-SPAIN: TREATY OF ARBITRATION

Signed at Madrid May 28, 1927; ratifications exchanged December 26, 1927.

Original text communicated by the Spanish Embassy at Washington, D. C.; <sup>1</sup> English translation from League of Nations, *Treaty Series*, LXXI, 332-334.

(*Translation*)

Su Majestad el Rey de España y el Excmo. Señor Presidente de la República de Chile, para confirmar la amistad cordial y la recíproca alta consideración entre ambas naciones en un acto que corresponda igualmente al progreso en

His Majesty the King of Spain and His Excellency the President of the Republic of Chile, desirous of strengthening the cordial amity and the high mutual consideration between the two nations by an act consonant both with the progress of

<sup>1</sup> See also League of Nations, *Treaty Series*, LXXI, 330.

el orden jurídico y al espíritu de las relaciones internacionales en el momento actual, han acordado celebrar un Tratado de arbitraje lo más amplio y completo y compatible con el Estatuto de la Corte Permanente de Justicia Internacional instituída por la Sociedad de las Naciones, de que son también signatarias.

Para ese efecto, Su Majestad el Rey de España ha designado al Excelentísimo Señor D. Miguel Primo de Rivera, Marqués de Estella, Presidente de Su Consejo de Ministros y Su Ministro de Estado, condecorado con la Gran Cruz Laureada de la Real y Militar Orden de San Fernando, Caballero Gran Cruz de las Ordenes de San Hermenegildo, del Mérito Militar, del Mérito Naval, del Mérito de Chile, de Pío IX de la Santa Sede, de al Legión de Honor de Francia, de San Benito de Avis de Portugal, de San Mauricio y San Lázaro de Italia, del Mérito Militar de Cuba, etcétera, etc.

El Excmo. Señor Presidente de la República de Chile, al Excmo. Señor D. Emilio Rodríguez Mendoza, Ministro Plenipotenciario de la misma en esta Corte, Caballero de la Orden de la Corona de Bélgica, Oficial de Instrucción Pública de Francia, Arcadé Romano, condecorado con la Medalla "Al Mérito" del Ecuador, etcétera, etc.

Quienes después de haber canjeado sus plenos poderes, hallados en buena y debida forma, han convenido en lo siguiente:

**ARTÍCULO 1º.** Las Altas Partes contratantes se obligan a someter a juicio arbitral todas las controversias de cualquier naturaleza, que por cualquier causa surgieren

law and with the spirit now prevailing in international relations, have resolved to conclude a Treaty of Arbitration which shall be as full and comprehensive as possible, and which shall be compatible with the Statute of the Permanent Court of International Justice established by the League of Nations, whereof they are also signatories.

For this purpose His Majesty the King of Spain has appointed:

His Excellency Don Miguel Primo de Rivera, Marquis de Estella, President of His Council of Ministers and His Minister for Foreign Affairs, decorated with the Laureate Grand Cross of the Royal and Military Order of San Fernando, Knight Grand Cross of the Order of San Hermenegildo, the Order of Military Merit, the Order of Naval Merit, the Order of Merit of Chile, the Order of Pius IX of the Holy See, the Order of the Legion of Honour of France, the Order of San Benito de Avis of Portugal, the Order of SS. Maurice and Lazarus of Italy, the Order of Military Merit of Cuba, etc., etc.;

His Excellency the President of the Republic of Chile has appointed:

His Excellency Don Emilio Rodríguez Mendoza, Minister Plenipotentiary of Chile at the Court of Madrid, Knight of the Order of the Crown of Belgium, Officier de l'Instruction Publique of France, Member of the Arcadia of Rome, decorated with the Medal "For Merit" of Ecuador, etc., etc.;

Who, having communicated their full powers, found in good and due form, have agreed as follows:

**ARTICLE 1.** The High Contracting Parties undertake to submit to arbitration all disputes of whatever nature which may arise between them from whatever cause, if such

entre ellas, siempre que no puedan ser resueltas por negociación directa.

ART. 2°. No podrán renovarse en virtud de este Tratado, las cuestiones que hayan sido objeto de arreglos definitivos entre ambas Altas Partes. En tal caso el arbitraje se limitará exclusivamente a las cuestiones que se susciten sobre validez, interpretación y cumplimiento de dichos arreglos.

ART. 3°. Para la decisión de las cuestiones que en cumplimiento de este Tratado se sometieren a arbitraje, las funciones de árbitro serán encomendadas con preferencia a un Jefe de Estado de una de las Repúblicas hispanoamericanas o Presidente de una Corte o Tribunal Superior de Justicia hispanoamericano, y en su defecto a un Tribunal formado por Jueces y peritos españoles, chilenos o hispanoamericanos.

ART. 4°. En cada caso particular, las Altas Partes contratantes firmarán un compromiso especial, que determine el árbitro nombrado, el alcance de los poderes de éste, la materia del litigio, los plazos, gastos y procedimientos que se fijaren.

ART. 5°. A no ser que se trate de un caso de denegación de justicia, el art. 1°. de este Tratado no será aplicable a las cuestiones que se suscitaren entre un ciudadano de una de las Altas Partes contratantes y el otro Estado, cuando los Jueces o Tribunales de este último Estado tengan, según su legislación, competencia para juzgar la referida cuestión. Sin embargo, podrá ser motivo de arbitraje el determinar si se trata o no de un caso de denegación de justicia.

ART. 6°. El presente Tratado permanecerá en vigor durante diez

disputes cannot be settled by direct negotiation.

ART. 2. Questions which have been dealt with by definitive agreements between the two High Contracting Parties shall not be reopened in virtue of the present Treaty. In such cases arbitration shall only be applied to questions which may arise as to the validity, interpretation or execution of the said agreements.

ART. 3. For the settlement of questions to be submitted to arbitration under this Treaty, the duties of arbitrator shall be entrusted preferably to the Head of the State of one of the Spanish-American Republics or to the President of a Spanish-American Supreme Tribunal or Court of Justice, or, failing either of the above, to a tribunal composed of Chilean, Spanish, or other Spanish-American judges and experts.

ART. 4. In each individual case the High Contracting Parties shall sign a special agreement stating the name of the arbitrator selected, the extent of his powers, the subject of the dispute, and the time-limits, costs, and procedure to be fixed.

ART. 5. Article 1 of this Treaty shall not apply to questions, except cases of denial of justice, which may arise between a national of one of the High Contracting Parties and the other State, when the judges or courts of law of the latter are competent under its legislation to deal with the question at issue. Nevertheless, the question whether a case of denial of justice has occurred may be made the subject of arbitration.

ART. 6. The present Treaty shall remain in force for ten years from

años, contados desde la fecha del canje de sus ratificaciones.

En caso de que doce meses antes de cumplirse dicho término ninguna de las Altas Partes contratantes hubiese declarado su intención de hacer cesar los efectos del presente Tratado, continuará siendo éste obligatorio hasta un año después de que una u otra de las Altas Partes signatarias lo hubiesen denunciado.

ART. 7°. Este Tratado será ratificado por las Altas Partes contratantes, según sus respectivas leyes y se canjearán las ratificaciones en Madrid en el más breve plazo posible.

En testimonio de lo cual, los Plenipotenciarios arriba indicados firman el presente Tratado y lo roboran con sus respectivos sellos.

Hecho por duplicado en Madrid a veintiocho de Mayo de mil novecientos veintisiete.

El Marqués de Estella  
E. Rodríguez Mendoza

the date of the exchange of ratifications.

If, twelve months before the end of this period, neither of the High Contracting Parties has announced its intention of terminating the present Treaty, the latter shall remain binding until one year after its denunciation by either of the High Contracting Parties.

ART. 7. The present Treaty shall be ratified by the High Contracting Parties in accordance with their respective laws, and the ratifications shall be exchanged at Madrid as soon as possible.

In faith whereof the above-named Plenipotentiaries have signed the present Treaty and have confirmed it with their seals.

Done in duplicate, at Madrid, May the twenty-eighth, one thousand nine hundred and twenty-seven.

El Marquis de Estella  
E. Rodríguez Mendoza

## No. 84

### BELGIUM-PORTUGAL: TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Brussels July 9, 1927; ratifications exchanged May 11, 1928.

Original text from *Moniteur Belge*, 1928, No. 105; <sup>1</sup> English translation from League of Nations, *Treaty Series*, LXXIV, 41-51.

#### (Translation)

Sa Majesté le Roi des Belges et Le Président de la République Portugaise,

Animés du désir de resserrer, sur la base du respect mutuel de l'intégrité territoriale et des droits et intérêts légitimes de chacun des deux Etats, et d'accord avec les principes dont s'inspire la Société

The President of the Portuguese Republic and His Majesty the King of the Belgians being desirous, on the basis of mutual respect for the territorial integrity and the legitimate rights and interests of the two countries and in agreement with the principles of the League of Nations, of strengthening the ties

See also League of Nations, *Treaty Series*, LXXIV, 40.

des Nations, les liens d'amitié, de coopération et de bon voisinage qui existent entre la Belgique et le Portugal, ainsi qu'entre leurs possessions coloniales respectives, ont résolu de conclure à cet effet un traité de conciliation, de règlement judiciaire et d'arbitrage, et ont désigné leurs plénipotentiaires, savoir:

Sa Majesté le Roi des Belges:

M. Emile Vandervelde, Ministre d'Etat, Son Ministre des Affaires Etrangères,

Le Président de la République Portugaise:

Son Excellence M. Alberto d'Oliveira, Envoyé Extraordinaire et Ministre Plénipotentiaire de Portugal près sa Majesté le Roi des Belges,

Lesquels, après s'être fait connaître leurs pleins pouvoirs trouvés en bonne et due forme, sont convenus de ce qui suit:

ARTICLE 1<sup>er</sup>. Tous les litiges ayant pour objet un droit, de quelle nature qu'il soit, allégué par une des Parties contractantes et contesté par l'autre et, notamment, les différends mentionnés à l'article 13 du Pacte de la Société des Nations, qui n'auraient pu être réglés dans un délai raisonnable, par les procédures diplomatiques ordinaires, seront soumis pour jugement à la Cour Permanente de Justice Internationale.

ART. 2. Les parties contractantes établiront, dans chaque cas particulier, un compromis spécial déterminant nettement l'objet du différend, les compétences particulières qui pourraient être dévolues à la Cour Permanente de Justice Internationale, ainsi que toutes autres conditions arrêtées entre elles.

Le compromis sera établi par échange de notes entre les Gou-

of friendship, co-operation and good-will which exist between Portugal and Belgium and between their respective colonial possessions have decided to conclude for this purpose a Treaty of Conciliation, Judicial Settlement and Arbitration and have appointed their Plenipotentiaries, namely:

The President of the Portuguese Republic:

His Excellency M. Alberto de Oliveira, Portuguese Envoy Extraordinary and Minister Plenipotentiary at the Court of His Majesty the King of the Belgians;

His Majesty the King of the Belgians:

M. Emile Vandervelde, Minister of State, His Minister for Foreign Affairs;

Who, having exchanged their full powers found in good and due form have agreed upon the following provisions.

ARTICLE 1. All disputes concerning a right of any kind claimed by one of the Contracting Parties and opposed by the other Party and, in particular, disputes mentioned in Article 13 of the Covenant of the League of Nations, which it may not have been possible to settle amicably by the normal methods of diplomacy, shall be submitted for decision to the Permanent Court of International Justice.

ART. 2. The Contracting Parties shall, in each particular case, draw up a special agreement (*compromis*) clearly defining the subject of the dispute, the particular jurisdiction to be exercised by the Permanent Court of International Justice and any other conditions as determined between themselves.

The said agreement shall be constituted by an exchange of notes



vernements des Parties contractantes. Il sera interprété en tous points par la Cour de Justice.

Si le compromis n'est pas arrêté dans les trois mois à compter du jour où l'une des Parties aura été saisie d'une demande aux fins de règlement judiciaire, chaque Partie pourra saisir la Cour de Justice par voie de simple requête.

ART. 3. Avant toute procédure devant la Cour Permanente de Justice Internationale, le différend pourra, à la demande de l'une ou l'autre des Parties, être soumis à fin de conciliation, à une commission internationale permanente, dite Commission Permanente de Conciliation, constituée conformément au présent traité.

ART. 4. La Commission Permanente de Conciliation sera composée de cinq membres. Les Parties contractantes nommeront, chacune, un commissaire à leur gré et désigneront, d'un commun accord, les trois autres et, parmi ces derniers, le Président de la Commission. Ces trois commissaires ne devront, ni être ressortissants des Parties contractantes, ni avoir leur domicile sur leur territoire ou se trouver à leur service. Ils devront être tous trois de nationalité différente.

Les commissaires seront nommés pour trois ans. Si à l'expiration du mandat d'un membre de la Commission, il n'est pas pourvu à son remplacement, son mandat est censé renouvelé pour une période de trois ans; les Parties se réservent toutefois de transférer, à l'expiration du terme de trois ans, les fonctions du Président à un autre des membres de la Commission désignés en commun.

between the Governments of the Contracting Parties. The Court of Justice may interpret any point in this agreement.

If the agreement has not been drawn up within three months as from the day on which one of the Parties has received a request for judicial settlement, each Party may bring the dispute direct before the Court of Justice by means of an ordinary application.

ART. 3. Previous to the institution of any proceedings before the Permanent Court of International Justice the dispute may, at the request of either Party, be submitted for conciliation to a Permanent International Commission, to be known as the Permanent Conciliation Commission, constituted in conformity with the present Treaty.

ART. 4. The Permanent Conciliation Commission shall be composed of five members. The Contracting Parties shall each nominate a commissioner of their own choice and shall appoint by agreement three other commissioners one of whom they shall designate as President of the Commission.

These three commissioners must not be nationals of the Contracting Parties nor must they be domiciled in their territories nor be in their service. They must all three be of different nationalities.

The commissioners shall be appointed for three years. If on the expiration of a member's term of office no steps have been taken to replace him, his term of office shall be deemed to have been prolonged for a period of three years; the Parties may, however, decide on the expiration of the President's term of office to appoint another member of the Commission designated jointly to the office of President.

Un membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part à l'examen du différend jusqu'à ce que la procédure soit terminée, nonobstant le fait que son remplaçant aurait été désigné.

En cas de décès ou de retraite de l'un des membres de la Commission de Conciliation, il devra être pourvu à son remplacement pour le reste de la durée de son mandat, si possible dans les trois mois qui suivront et, en tout cas, aussitôt qu'un différend aura été soumis à la Commission.

Au cas où l'un des membres de la Commission de Conciliation désignés en commun par les Parties contractantes serait momentanément empêché de prendre part aux travaux de la Commission par suite de maladie ou de toute autre circonstance, les Parties s'entendront pour désigner un suppléant qui siégera temporairement à sa place. Si la désignation de ce suppléant n'intervient pas dans un délai de trois mois, à compter de la vacance temporaire du siège, il sera procédé conformément à l'article 5 du présent traité.

ART. 5. La Commission de Conciliation sera constituée dans les six mois qui suivront l'entrée en vigueur du présent traité.

Si la nomination des membres à désigner en commun n'intervenait pas dans ledit délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, elle sera confiée à une puissance tierce, désignée de commun accord par les Parties. Si l'accord ne s'établit pas à ce sujet, chaque Partie désignera une Puissance différente et les nominations seront faites de concert par les Puissances ainsi désignées. Et si, dans un délai de deux mois, ces deux Puissances

A member whose term of office expires while proceedings are in progress shall continue to sit as a member of the Commission for the dispute in question until the proceedings have been concluded, even if his successor has been appointed.

In case of the death or withdrawal of one of the members of the Conciliation Commission, steps shall be taken to replace this member for the remainder of his term of office, if possible within the three months following his death or withdrawal, and in any case as soon as a dispute has been submitted to the Commission.

Should one of the members of the Conciliation Commission appointed jointly by the Contracting Parties be temporarily prevented from taking part in the work of the Commission owing to illness or some other circumstance, the Parties shall agree to appoint a substitute who shall sit temporarily in his place. If the substitute has not been appointed within three months as from the date of the temporary vacancy, the procedure followed shall be that laid down in Article 5 of the present Treaty.

ART. 5. The Permanent Conciliation Commission shall be constituted within six months from the entry into force of the present Treaty.

If the Commissioner to be chosen by agreement has not been appointed within the said period, or, if a vacancy has not been filled within three months from the time when the seat fell vacant, the appointment shall be made by a third Power jointly designated by the Parties. If an agreement is not reached on this point, each Party shall designate a different Power and the appointments shall be made jointly by these two Powers.

n'ont pu tomber d'accord, chacune d'elles présentera des candidats en nombre égal aux membres à désigner, le sort déterminera lesquels des candidats ainsi présentés seront admis

ART 6 La Commission de Conciliation sera saisie, par voie de requête adressée au Président, par les deux Parties agissant d'un commun accord, ou à défaut par l'une ou l'autre des Parties

La requête après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à l'autre partie

ART 7 Dans un délai de quinze jours, à partir de la date où l'une des Parties contractantes aura porté un différend devant la Commission de Conciliation, chacune des Parties pourra, pour l'examen de ce différend, remplacer le membre permanent désigné par elle par une personne possédant une compétence spéciale dans la matière. La Partie qui voudrait user de ce droit en avisera immédiatement l'autre Partie, celle-ci aura la faculté d'user du même droit dans un délai de quinze jours à partir de la date où l'avis lui sera parvenu

Chaque Partie se réserve de nommer immédiatement un suppléant pour remplacer temporairement le membre permanent désigné par elle qui, par suite de maladie ou de toute autre circonstance, se trouverait momentanément empêché de prendre part aux travaux de la Commission

And if, within two months, these two Powers have not been able to reach an agreement, each Power shall submit a number of candidates equal to that of the members to be appointed, the final choice among these candidates shall be made by lot

ART 6 The Conciliation Commission shall be informed by means of a request addressed to the President by the two Parties acting in agreement or, in the absence of such agreement, by one or other of the Parties

The request shall contain a summary account of the subject of the dispute and an invitation to the Commission to take whatever measures are necessary with a view to arriving at an amicable settlement

If the request emanates from only one of the Parties, notification thereof shall be made without delay to the other Party

ART 7 Within fifteen days from the date on which one of the Contracting Parties has brought a dispute before the Conciliation Commission either Party may, for the examination of the particular dispute replace its permanent member by a person possessing special competence in the matter. The Party desiring to make use of this right shall immediately inform the other Party, the latter shall be entitled to take similar action within fifteen days from the date on which it has received notification

Either Party shall be entitled to appoint a temporary substitute forthwith to replace the permanent member designated by it, in case that member should as a result of illness or any other circumstance, be prevented for the time being from taking part in the work of the Commission

**ART 8** La Commission de Conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

À la fin de ses travaux, la Commission dressera un procès verbal constatant, suivant le cas, soit que les Parties se sont arrangées et, s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la Commission devront, à moins que les Parties n'en conviennent différemment, être terminés dans le délai de six mois à compter du jour où la Commission aura été saisie du litige.

Si les Parties n'ont pas été conciliées, la Commission pourra, à moins que l'un ou l'autre des deux commissaires librement nommés par les Parties ne s'y oppose, ordonner, avant même que la Cour Permanente de Justice Internationale, saisie du différend ait statué définitivement, la publication d'un rapport où sera consigné l'avis de chacun des membres de la Commission.

**ART 9** À moins de stipulation spéciale contraire, la Commission de Conciliation réglera elle-même sa procédure qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la Commission si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du Titre III (Commissions Internationales d'Enquête) de la Convention de La Haye du 18 octobre 1907 pour le règlement

**ART 8** The task of the Permanent Commission shall be to elucidate questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of settlement which it deems suitable, and lay down a period within which they are to make their decision.

At the close of its proceedings the Commission shall draw up a report stating as the case may be, either that the Parties have come to an arrangement and, if need be, the terms of such arrangement, or that it has been impossible to effect a settlement.

The proceedings of the Commission must, unless the Parties otherwise agree, be terminated within six months from the day on which it was first notified of the dispute.

If it has been impossible to bring about a friendly settlement, the Commission may, even if the case has been referred to the Permanent Court of International Justice and that Court has not yet reached a final decision, order the publication of a report setting out the opinion of each of its members unless either of the Commissioners appointed by the Parties of their own choice opposes such action.

**ART 9** Failing any special provision to the contrary, the Conciliation Commission shall lay down its own procedure which must provide, in all cases, for both Parties being heard. In regard to enquiries, the Commission, unless it unanimously decides otherwise, shall proceed in accordance with the provisions of Chapter III (International Commissions of Enquiry) of the Hague Convention of

pacifique des conflits internationaux.

ART. 10. La Commission de Conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son Président.

ART. 11. Les travaux de la Commission de Conciliation ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties.

ART. 12. Les Parties contractantes auront le droit de nommer auprès de la Commission de Conciliation des agents spéciaux qui serviront en même temps d'intermédiaire entre elles et la Commission. Adéfaut de semblable nomination, la Commission, par l'entremise de son Président, correspondra directement avec les Ministères des Affaires Etrangères des Parties.

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties, ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement.

ART. 13. Sauf disposition contraire du présent Traité, les décisions de la Commission de Conciliation seront prises à la majorité des voix.

ART. 14. Les Parties contractantes s'engagent à faciliter les travaux de la Commission de Conciliation et, en particulier, à lui fournir, dans la plus large mesure possible, tous documents et informations utiles, ainsi qu'à user des moyens dont elles disposent pour lui permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 10. Except where otherwise agreed by the Parties, the Conciliation Commission shall meet at the place selected by its President.

ART. 11. The proceedings of the Conciliation Commission shall not be public, except where otherwise decided by the Commission, with the consent of the Parties.

ART. 12. The Contracting Parties shall be entitled to appoint special agents to represent them before the Conciliation Commission; these agents shall also act as intermediaries between the Parties and the Commission. Failing such appointment, the Commission may, through its President, correspond direct with the Minister for Foreign Affairs of either Party.

The Commission, on its side, shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties, as well as from all persons it may think useful to summon with the consent of their respective Governments.

ART. 13. Unless otherwise provided in the present Treaty, the decisions of the Conciliation Commission shall be taken by a majority vote.

ART. 14. The Contracting Parties undertake to facilitate the work of the Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to enable it to proceed in their territories and in accordance with their laws to summon and hear witnesses or experts, and to visit the localities in question.

ART. 15. Pendant la durée des travaux de la Commission de Conciliation, chacun des commissaires recevra une indemnité dont le montant sera arrêté, d'un commun accord, entre les Parties contractantes.

Chaque Gouvernement supportera ses propres frais et une part égale des frais communs de la Commission, les indemnités prévues à l'alinéa premier étant comprises parmi ces frais communs.

ART. 16. Tous les litiges autres que ceux visés à l'article premier qui viendraient à s'élever entre les Parties contractantes et ne pourraient être résolus dans un délai raisonnable, par les procédés diplomatiques ordinaires, seront soumis à la Commission Permanente de Conciliation. Il sera procédé dans ce cas conformément aux articles 6 à 15 du présent traité.

ART. 17. Si les Parties ne peuvent être conciliées, le litige sera, à la requête d'une seule des Parties, soumis pour décision à un tribunal arbitral constitué dans les conditions et suivant la procédure prévues par la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

Les Parties se réservent, toutefois, la faculté de soumettre le litige, d'un commun accord, à la Cour Permanente de Justice Internationale, laquelle statuera "*ex æquo et bono*."

ART. 18. Lorsque l'une des deux Parties aura, conformément à l'alinéa premier de l'article précédent, requis que le litige soit soumis à un tribunal arbitral constitué dans les conditions et suivant la procédure prévues par l'article 45 de la Convention de La Haye du 18 octobre

ART. 15. During the proceedings of the Conciliation Commission each Commissioner shall receive emoluments, the amount of which shall be fixed by agreement between the Contracting Parties.

Each Government shall pay its own expenses and shall contribute an equal share to the joint expenses of the Commission, the emoluments of the Commissioners being included in these joint expenses.

ART. 16. All questions other than those mentioned in Article 1 which may arise between the Contracting Parties and which it has been impossible to settle in a reasonable time by the normal methods of diplomacy shall be submitted to the Permanent Conciliation Commission. In this case the procedure laid down in Articles 6 to 15 of the present Treaty shall be applicable.

ART. 17. Should it be impossible to reach an amicable settlement, the dispute shall, at the request of either Party, be submitted for decision to a Court of Arbitration set up under the conditions and according to the procedure defined in the Hague Convention of October 18, 1907, for the Pacific Settlement of International disputes.

The Parties may, however, agree to submit a dispute to the Permanent Court of International Justice, which shall render a decision *ex æquo et bono*.

ART. 18. If one of the Parties has, in conformity with paragraph 1 of the preceding Article, requested that the dispute be submitted to a Court set up under the conditions and according to the procedure laid down in Article 45 of the Hague Convention of October 18, 1907,

1907 pour le règlement pacifique des conflits internationaux, l'autre Partie aura l'obligation de s'adresser aux mêmes fins à ce tribunal, conjointement avec la Partie qui aura requis l'arbitrage, et toutes deux concluront dans un délai de trois mois un compromis spécial concernant l'objet du litige, ainsi que les modalités de la procédure.

Si ce compromis ne peut être conclu dans le délai ci-dessus prévu, il y sera obligatoirement suppléé conformément à la procédure indiquée au titre IV de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

Dans le cas où le litige serait soumis à la Cour Permanente de Justice Internationale, il sera procédé conformément aux dispositions du Statut de cette Cour.

ART. 19. S'il s'agit d'un différend qui, à teneur de la législation interne de l'une des Parties, relève de la compétence des tribunaux, y compris les tribunaux administratifs, la Partie défenderesse pourra s'opposer à ce qu'il soit soumis à la procédure de conciliation, à la procédure de règlement judiciaire ou à la procédure d'arbitrage prévues par le présent Traité avant qu'un jugement définitif ait été rendu, dans un délai raisonnable, par l'autorité judiciaire compétente.

ART. 20. Si la Cour Permanente de Justice Internationale ou le Tribunal Arbitral établissait qu'une décision d'une instance judiciaire ou de toute autre autorité relevant de l'une des Parties contractantes se trouve entièrement ou partiellement en opposition avec le droit des gens, et si le droit constitutionnel de cette Partie ne permettait

for the Pacific Settlement of International Disputes, the other Party shall be bound to apply to the said Court, for the same purpose, in conjunction with the Party which has requested arbitration, and the two Parties shall within three months conclude a special agreement concerning the subject of the dispute and the procedure to be followed.

Should it be impossible to draw up this special agreement within the above-mentioned time-limit, the procedure laid down in Part IV of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes shall be obligatory.

Should a dispute be submitted to the Permanent Court of International Justice, the procedure shall be that provided by the Statute of the Court.

ART. 19. In the case of a dispute which, according to the municipal law of one of the Parties, falls within the jurisdiction of the national courts of that Party, including the administrative tribunals, the said Party may require that the dispute shall not be submitted for conciliation, judicial settlement, or arbitration, as provided in the present Treaty, until a final judgment has been pronounced within a reasonable time by the competent national judicial authority.

ART. 20. Should the Permanent Court of International Justice or the Court of Arbitration find that a decision of a Court of law or other authority of one of the Contracting Parties is wholly or partly at variance with international law, and should the constitutional law of that Party not allow, or only inadequately allow of the annulment of

pas ou ne permettait qu'imparfaitement d'effacer par voie administrative les conséquences de la décision dont il s'agit, la sentence judiciaire ou arbitrale déterminerait la nature et l'étendue de la réparation à accorder à la Partie lésée.

ART. 21. Durant la procédure de conciliation, la procédure judiciaire ou la procédure arbitrale, les Parties contractantes s'abstiendront de toute mesure pouvant avoir une répercussion sur l'acceptation des propositions de la Commission de Conciliation ou sur l'exécution de l'arrêt de la Cour Permanente de Justice Internationale ou de la sentence du Tribunal arbitral. A cet effet, la Commission de Conciliation, la Cour de Justice et le Tribunal arbitral ordonneront, le cas échéant, quelles mesures provisionnelles doivent être prises.

ART. 22. Les contestations qui surgiraient au sujet de l'interprétation ou de l'exécution du présent Traité seront, sauf accord contraire, soumises directement à la Cour permanente de Justice Internationale par voie de simple requête.

ART. 23. Le présent Traité ne s'appliquera qu'aux litiges qui viendraient à s'élever, après l'échange des ratifications du présent traité, au sujet de situations ou de faits postérieurs à cette date.

Les litiges pour la solution desquels une procédure spéciale est prévue par d'autres accords en vigueur entre les Parties contractantes seront réglés conformément aux stipulations de ces accords.

ART. 24. Le présent Traité sera ratifié. Les instruments de ratification en seront échangés à Bruxelles, dans le plus bref délai possible.

the consequences of this decision by administrative procedure, the judicial or arbitral decision shall state the nature and extent of the compensation to be accorded to the injured Party.

ART. 21. During the conciliation, judicial settlement or arbitration proceedings, the Contracting Parties shall abstain from all measures which might have a prejudicial effect on the acceptance of the proposals of the Conciliation Commission, the execution of the judgment of the Permanent Court of International Justice, or the award of the Court of Arbitration. For this purpose, the Conciliation Commission, the Court of Justice or the Court of Arbitration shall, if necessary, lay down the provisional measures to be adopted.

ART. 22. Any dispute arising as to the interpretation or execution of the present Treaty shall, except as otherwise agreed, be submitted direct to the Permanent Court of International Justice by means of a simple application.

ART. 23. The present Treaty shall apply only to disputes arising after the exchange of ratifications and in connection with situations or events which have developed or occurred subsequent to that date.

Disputes for the settlement of which a special procedure is provided in other agreements in force between the Contracting Parties shall be settled in conformity with the terms of such agreements.

ART. 24. The present Treaty shall be ratified. The instruments of ratification shall be exchanged at Brussels as soon as possible.



Le présent Traité entrera en vigueur dès l'échange des ratifications et aura une durée de cinq ans à partir de son entrée en vigueur. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il sera considéré comme renouvelé pour une période de cinq années, et ainsi de suite.

Si lors de l'expiration du présent Traité, une procédure de conciliation, de règlement judiciaire ou d'arbitrage se trouve pendante, elle suivra son cours jusqu'à son achèvement, conformément aux stipulations du présent Traité.

En foi de quoi, les Plénipotentiaires susnommés ont signé le présent Traité.

Fait à Bruxelles, en double exemplaire, le 9 juillet 1927.

E. Vandervelde  
Alb. d'Oliveira

The Treaty shall come into force as soon as the ratifications have been exchanged, and shall be concluded for five years as from the date of its coming into force. If it is not denounced six months before the expiration of this period, it shall be deemed to have been renewed for a further period of five years, and similarly thereafter.

If proceedings for conciliation, judicial settlement or arbitration are pending at the time of the expiration of the present Treaty, they shall pursue their course in accordance with the provisions of the present Treaty.

In faith whereof the Plenipotentiaries have signed the present Treaty.

Done at Brussels in duplicate on July 9, 1927.

Alb. de Oliveira  
E. Vandervelde

#### PERMANENT COMMISSION OF CONCILIATION

No information available.

### N<sup>o</sup>. 85

#### BELGIUM-SPAIN: TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Brussels July 19, 1927; ratifications exchanged May 23, 1928.

Original text <sup>1</sup> from *Moniteur Belge*, 1928, No. 165; <sup>2</sup> English translation from League of Nations, *Treaty Series*, LXXX, 28-33.

(Translation)

Sa Majesté le Roi des Belges et  
Sa Majesté le Roi d'Espagne,

Animés du désir de resserrer les liens d'amitié qui existent entre la Belgique et l'Espagne, et de résoudre, selon les principes les plus élevés du droit international public,

His Majesty the King of the Belgians and His Majesty the King of Spain, being desirous of strengthening the ties of friendship existing between Belgium and Spain and of settling, in accordance with the highest principles of public inter-

<sup>1</sup> The Spanish text is also authentic.

<sup>2</sup> See also League of Nations, *Treaty Series*, LXXX, 18.

les différends qui viendraient à s'élever entre les deux pays; ont résolu de conclure à cet effet un traité et ont désigné leurs Plénipotentiaires, à savoir:

Sa Majesté le Roi des Belges:

M. Emile Vandervelde, Ministre d'Etat, Son Ministre des Affaires Etrangères,

Sa Majesté le Roi d'Espagne:

Son Excellence M. E. de Palacios y Fau, Son Ambassadeur Extraordinaire et Plénipotentiaire,

Lesquels, après s'être fait connaître leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Les Hautes Parties contractantes s'engagent réciproquement à régler par voie pacifique et d'après les méthodes prévues par le présent Traité tous les litiges ou conflits, de quelque nature qu'ils soient, qui viendraient à s'élever entre la Belgique et l'Espagne et qui n'auraient pu être résolus par les procédés diplomatiques ordinaires.

#### PARTIE I

ART. 2. Tous litiges entre les Hautes Parties contractantes, de quelque nature qu'ils soient, au sujet desquels les Parties se contesteraient réciproquement un droit et qui n'auraient pu être réglés à l'amiable par les procédés diplomatiques ordinaires, seront soumis pour jugement soit à un tribunal arbitral, soit à la Cour Permanente de Justice Internationale.

Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres conventions en vigueur entre les Hautes Parties contractantes seront réglées conformément aux dispositions de ces conventions.

national law, any disputes which may arise between the two countries, have resolved to conclude a treaty for this purpose and have appointed as their Plenipotentiaries:

His Majesty the King of the Belgians:

M. Emile Vandervelde, Minister of State, His Minister for Foreign Affairs;

His Majesty the King of Spain:

His Excellency M. E. de Palacios y Fau, His Ambassador Extraordinary and Plenipotentiary;

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1. The High Contracting Parties reciprocally undertake to settle by pacific means and in accordance with the methods provided for in the present Treaty all disputes or conflicts of any nature whatsoever which may arise between Belgium and Spain and which it may not have been possible to settle by the normal methods of diplomacy.

#### PART I

ART. 2. All disputes of every kind between the High Contracting Parties with regard to which the Parties are in conflict as to their respective rights, and which it may not have been possible to settle amicably by the normal methods of diplomacy, shall be submitted for decision to an arbitral tribunal or to the Permanent Court of International Justice.

Disputes for the settlement of which a special procedure is laid down in other conventions in force between the High Contracting Parties shall be settled in conformity with the provisions of those conventions.

ART. 3. S'il s'agit d'une contestation dont l'objet, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux, cette Partie pourra s'opposer à ce qu'elle soit soumise à la procédure prévue par le présent Traité avant qu'un jugement définitif ait été rendu, dans un délai raisonnable, par l'autorité judiciaire compétente.

ART. 4. Avant d'être soumis à la procédure judiciaire prescrite à l'article 2 du présent Traité, le différend pourra être, d'un commun accord entre les Parties, soumis à fin de conciliation à une Commission Internationale Permanente, dite Commission Permanente de Conciliation, constituée conformément au présent Traité.

ART. 5. La Commission Permanente de Conciliation sera composée de cinq membres. Les Parties contractantes nommeront, chacune, un commissaire à leur gré et désigneront, d'un commun accord, les trois autres et, parmi ces derniers, le Président de la Commission. Ces trois commissaires ne devront, ni être ressortissants des Parties contractantes, ni avoir leur domicile sur leur territoire, ou se trouver à leur service. Ils devront être tous trois de nationalité différente.

Les Commissaires seront nommés pour trois ans. Si, à l'expiration du mandat d'un membre de la Commission, il n'est pas pourvu à son remplacement, son mandat est censé renouvelé pour une période de trois ans; les Parties se réservent toutefois de transférer, à l'expiration du terme de trois ans, les fonctions du Président à un autre des membres de la Commission désigné en commun.

ART. 3. In the case of a dispute the occasion of which, according to the municipal law of one of the Parties, falls within the competence of the national courts, such Party may require that the dispute shall not be submitted to the procedure laid down in the present Treaty until a judgment with final effect has been pronounced within a reasonable time by the competent judicial authority.

ART. 4. Before any resort is made to the judicial procedure prescribed in Article 2 of the present Treaty, the dispute may, by agreement between the Parties, be submitted with a view to amicable settlement to a permanent international commission, styled the Permanent Conciliation Commission constituted in accordance with the present Treaty.

ART. 5. The Permanent Conciliation Commission shall be composed of five members. The Contracting Parties shall each appoint a commissioner of its own choosing, and shall appoint by common agreement the three other commissioners, and from among the latter, the President of the Commission. These three commissioners may not be nationals of the Contracting Parties, nor may they have their domicile in the territory or be in the service of the Contracting Parties. They must all three be of different nationalities.

The commissioners shall be appointed for three years. If upon the expiry of the term of office of a member of the Commission no arrangement has been made for his replacement, his term of office shall be deemed to be renewed for a period of three years. Nevertheless, the Parties reserve the right, on the expiry of the term of three years, to transfer the functions of

Un membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part à l'examen du différend jusqu'à ce que la procédure soit terminée, nonobstant le fait que son remplaçant aurait été désigné.

En cas de décès ou de retraite de l'un des membres de la Commission de Conciliation, il devra être pourvu à son remplacement pour le reste de la durée de son mandat, si possible dans les trois mois qui suivront et, en tout cas, aussitôt qu'un différend aura été soumis à la Commission.

Au cas où l'un des membres de la Commission de Conciliation désignés en commun par les Parties contractantes serait momentanément empêché de prendre part aux travaux de la Commission par suite de maladie ou toute autre circonstance, les Parties s'entendront pour désigner un suppléant, qui siègera temporairement à sa place.

Si la désignation de ce suppléant n'intervient pas dans un délai de trois mois, à compter de la vacance temporaire du siège, il sera procédé conformément à l'article 6 du présent Traité.

ART. 6. La Commission permanente de Conciliation sera constituée dans les six mois qui suivront l'échange des ratifications du présent Traité.

Si la nomination des membres à désigner en commun n'intervenait pas dans ledit délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, elle sera confiée à une puissance tierce, désignée de commun accord par les Parties. Si l'accord ne s'établit pas à ce sujet, chaque Partie désignera une Puissance différente

President to another of the members of the Commission appointed by common agreement.

Any member whose term of office expires while proceedings are still in progress shall continue to take part in the examination of the dispute until the close of such proceedings, even if his successor has been appointed.

Vacancies which may occur as a result of the death or retirement of any member of the Conciliation Commission shall be filled for the remainder of the term of office of such member, if possible within the following three months, and in any case as soon as a dispute is submitted to the Commission.

Should one of the members of the Conciliation Commission appointed by common agreement by the Contracting Parties be temporarily prevented by illness or any other cause from taking part in the Commission's work, the Parties shall agree to appoint a substitute to take his place for the time being.

If the appointment of this substitute is not made within three months from the time when the seat became temporarily vacant, the procedure laid down in Article 6 of the present Treaty shall be applicable.

ART. 6. The Permanent Conciliation Commission shall be constituted within a period of six months reckoned from the exchange of ratifications of the present Treaty.

If the nomination of the members to be appointed jointly should not have taken place within the said period, or in the case of the filling of a vacancy, within three months from the time when the seat falls vacant, such nomination shall be entrusted to a third Power designated by the Parties by com-

et les nominations seront faites de concert par les Puissances ainsi désignées. Et si, dans un délai de deux mois, ces deux Puissances n'ont pu tomber d'accord, chacune d'elles présentera des candidats en nombre égal aux membres à désigner: le sort déterminera lesquels des candidats ainsi présentés seront admis.

ART. 7. La Commission permanente de Conciliation sera saisie par voie de requête adressée au Président par les deux Parties agissant d'un commun accord.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation.

ART. 8. Dans le délai de quinze jours à partir de la date où la Commission de Conciliation aura été saisie du différend, chacune des Parties pourra, pour l'examen de ce différend, remplacer le membre permanent désigné par elle par une personne possédant une compétence spéciale dans la matière. La Partie qui voudrait user de ce droit en avisera immédiatement l'autre Partie; celle-ci aura la faculté d'user du même droit dans un délai de quinze jours à partir de la date où l'avis lui sera parvenu.

Chaque Partie se réserve de nommer immédiatement un suppléant pour remplacer temporairement le membre permanent désigné par elle qui, par suite de maladie ou de toute autre circonstance, se trouverait momentanément empêché de prendre part aux travaux de la Commission.

mon agreement. Should no agreement be reached on this subject, each Party shall designate a different Power and the nomination shall be made jointly by the Powers thus designated. If within two months these two Powers have not found it possible to agree, they shall each submit as many candidates as there are members to be appointed; the choice of the candidates thus submitted shall be determined by lot.

ART. 7. The Permanent Conciliation Commission shall be informed by means of a request addressed to the President by the two Parties acting in agreement.

The request, after having given a summary account of the subject of the dispute, shall contain an invitation to the Commission to take all the necessary measures with a view to arriving at an amicable settlement.

ART. 8. Within fifteen days from the date on which the dispute shall have been brought before the Conciliation Commission either Party may, for the examination of the particular dispute, replace the permanent member whom it has appointed by a person possessing special competence in the matter. The Party desiring to make use of this right shall immediately inform the other Party. The latter shall be entitled to take similar action within fifteen days from the date on which it shall have received notification.

Each of the Parties reserves the right to appoint immediately a substitute to replace for the time being any permanent member appointed by it who may be temporarily prevented by illness or any other cause from taking part in the work of the Commission.

**ART. 9.** La Commission de Conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

A la fin de ses travaux, la Commission dressera un procès-verbal constatant, suivant le cas, soit que les Parties se sont arrangées et, s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la Commission devront, à moins que les Parties n'en conviennent différemment, être terminés dans le délai de six mois, à compter du jour où la Commission aura été saisie du litige.

Si les Parties n'ont pas été conciliées, la Commission pourra, à moins que les deux commissaires librement nommés par les Parties ne s'y opposent, ordonner, avant même que la Cour Permanente de Justice Internationale ou le Tribunal saisi du différend ait statué définitivement, la publication d'un rapport où sera consigné l'avis de chacun des membres de la Commission.

**ART. 10.** A moins de stipulation spéciale contraire, la Commission de Conciliation réglera elle-même sa procédure, qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la Commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du titre III (Commissions internationales d'enquêtes) de la Convention de La Haye du 18

**ART. 9.** The task of the Conciliation Commission shall be to elucidate questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise and to endeavour to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of settlement which seem suitable to it, and lay down a period within which they are to make their decision.

At the close of its proceedings, the Commission shall draw up a report stating, as the case may be, either that the Parties have come to an agreement and, if need be, the terms of the agreement, or that it has been impossible to effect a settlement.

The proceedings of the Commission must, unless the Parties agree otherwise, be terminated within six months from the day on which the Commission was first notified of the dispute.

If a settlement has not been effected between the Parties, the Commission may, unless the two Commissioners freely appointed by the Parties oppose this procedure, order a report to be published setting forth the opinion of each of the members of the Commission, even before the Permanent Court of International Justice or the tribunal notified of the dispute has given a final decision.

**ART. 10.** Failing any special provision to the contrary, the Conciliation Commission shall lay down its own procedure, which in any case must provide for both Parties being heard. In regard to enquiries, the Commission, unless it unanimously decides otherwise, shall act in accordance with the provisions of Chapter III (International Commissions of Enquiry)

octobre 1907 pour le règlement pacifique des conflits internatio-

ART. 11. La Commission de Conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son Président.

ART. 12. Les travaux de la Commission de Conciliation ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties.

ART. 13. Les Parties seront représentées auprès de la Commission de Conciliation par des agents ayant mission de servir d'intermédiaire entre elles et la Commission; elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet, et demander l'audition de toutes personnes dont le témoignage leur paraîtrait utile.

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties, ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur gouvernement.

ART. 14. Sauf disposition contraire du présent Traité, les décisions de la Commission de conciliation seront prises à la majorité des voix.

ART. 15. Les Parties contractantes s'engagent à faciliter les travaux de la Commission de Conciliation et, en particulier, à lui fournir, dans la plus large mesure possible, tous documents et informations utiles, ainsi qu'à user des moyens dont elles disposent pour lui permettre de procéder sur leur

of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 11. The Conciliation Commission shall meet, in the absence of agreement by the Parties to the contrary, at a place selected by its President.

ART. 12. The proceedings of the Conciliation Commission shall not be public, except when a decision to that effect has been taken by the Commission with the consent of the Parties.

ART. 13. The Parties shall be represented before the Conciliation Commission by agents whose duty it shall be to act as intermediaries between them and the Commission. They may, moreover, be assisted by counsel and experts appointed by them for that purpose, and they may request that all persons whose evidence appears to them useful should be heard.

The Commission, on its side, shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties as well as from all persons it may think useful to summon with the consent of their Government.

ART. 14. Unless otherwise provided in the present Treaty, the decisions of the Conciliation Commission shall be taken by a majority vote.

ART. 15. The Contracting Parties undertake to facilitate the work of the Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to enable it to proceed in their territory and in ac-

territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

ART. 16. Pendant la durée des travaux de la Commission de Conciliation, chacun des commissaires recevra une indemnité dont le montant sera arrêté d'un commun accord entre les Parties contractantes.

Chaque Gouvernement supportera ses propres frais et une part égale des frais communs de la Commission, les indemnités prévues à l'alinéa 1<sup>er</sup> étant comprises parmi ces frais communs.

ART. 17. A défaut de conciliation devant la Commission Permanente de Conciliation, la contestation sera soumise soit à un tribunal arbitral, soit à la Cour Permanente de Justice Internationale, suivant les stipulations de l'article 2 du présent Traité.

En ce cas, comme dans celui où il n'y aurait pas eu recours préalable à la Commission Permanente de Conciliation, les Parties établiront de commun accord le compromis déferant le litige à la Cour Permanente de Justice Internationale ou désignant des arbitres. Le compromis déterminera nettement l'objet du différend, les compétences particulières qui pourraient être dévolues à la Cour Permanente de Justice Internationale ou au Tribunal arbitral, ainsi que toutes autres conditions arrêtées entre Parties. Il sera établi par échange de notes entre les deux Gouvernements.

La Cour Permanente de Justice Internationale chargée de statuer sur le différend ou le tribunal arbitral désigné aux mêmes fins, auront respectivement compétence pour

cordance with their law to the summoning and hearing of witnesses or experts and to visit the localities in question.

ART. 16. During the proceedings of the Conciliation Commission, each Commissioner shall receive emoluments, the amount of which shall be fixed by agreement between the Contracting Parties.

Each Government shall pay its own expenses and shall pay an equal share of the joint expenses of the Commission, the emoluments provided for in paragraph 1 being included in these joint expenses.

ART. 17. In the event of no amicable agreement being reached before the Permanent Conciliation Commission, the dispute shall be submitted either to an Arbitral Tribunal or to the Permanent Court of International Justice, as provided in Article 2 of the present Treaty.

In this case, and also when there has been no previous recourse to the Permanent Conciliation Commission, the Parties shall jointly draw up the special agreement referring the dispute to the Permanent Court of International Justice or appointing arbitrators. The aforesaid agreement shall clearly state the subject of the dispute, the particular competence that might devolve upon the Permanent Court of International Justice or upon the Arbitral Tribunal and any other conditions arranged between the Parties. This agreement shall be constituted by an exchange of Notes between the two Governments.

The Permanent Court of International Justice, when requested to render a decision on the dispute, or



interpréter les termes du compromis.

Si le Compromis n'est pas arrêté dans les trois mois à compter du jour où l'une des Parties aura été saisie de la demande aux fins de règlement judiciaire, chaque Partie pourra, après préavis d'un mois, porter directement, par voie de requête, la contestation devant la Cour Permanente de Justice Internationale.

Au surplus, la procédure applicable sera celle prévue par le statut de la Cour Permanente de Justice Internationale ou, en cas de recours à un tribunal arbitral, celle prévue par la Convention de La Haye du 18 octobre 1907, pour le règlement pacifique des conflits internationaux.

## PARTIE II

ART. 18. Toutes questions sur lesquelles les Gouvernements des deux Hautes Parties contractantes seraient divisés sans pouvoir les résoudre à l'amiable par les procédés diplomatiques ordinaires, dont la solution ne pourrait être recherchée par un jugement, ainsi qu'il prévu par l'article 2 du présent Traité et pour lesquelles un procédé de règlement ne serait pas déjà prévue par un traité ou convention en vigueur entre les Parties, seront soumises à la Commission Permanente de Conciliation.

A défaut d'accord entre les Parties sur la requête à présenter à la Commission, l'une ou l'autre d'entre elles aura la faculté de soumettre directement, après préavis d'un mois, la question à ladite Commission.

Si la requête émane d'une seule des Parties, elle sera notifiée par

the Arbitral Tribunal, when appointed for the same purpose, shall respectively be competent to interpret the terms of the special agreement.

If the special agreement has not been drawn up within three months from the date on which one of the Parties was requested to submit the matter for judicial settlement, either Party may, on the expiry of one month's notice, bring the question direct before the Permanent Court of International Justice by means of a request.

The procedure applicable shall be that laid down by the Statute of the Permanent Court of International Justice, or in the case of recourse to an Arbitral Tribunal, that laid down by the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

## PART II

ART. 18. All questions on which the Governments of the two High Contracting Parties may differ without being able to reach an amicable solution by the normal methods of diplomacy, and which cannot be submitted for decision as provided in Article 2 of the present Treaty, and for the settlement of which no procedure has been provided by any treaty or convention in force between the Parties, shall be referred to the Permanent Conciliation Commission.

Failing agreement between the Parties on the request to be made to the Commission, either Party shall be entitled to submit the question direct to the said Commission on the expiry of one month's notice.

Should the request be preferred by one Party only, such Party shall

celle-ci, sans délai, à la Partie adverse.

La procédure prévue par les articles 7, alinéa 2, et 8 et 16 du présent Traité sera applicable.

ART. 19. Si les Parties ne peuvent être conciliées, le conflit sera, à la requête d'une seule des Parties, soumis pour décision à un tribunal arbitral, qui, à défaut d'autre accord entre les Parties, sera composé de cinq membres désignés pour chaque cas particulier, suivant la méthode prévue aux articles 5 et 6 du présent Traité, en ce qui concerne la Commission de Conciliation. Ce tribunal arbitral aura, en pareil cas, les pouvoirs d'arbitrage, en pareil cas, les pouvoirs d'arbitrage, en pareil cas, les pouvoirs d'arbitrage, en pareil cas, les pouvoirs d'arbitrage.

ART. 20. Lorsqu'il y aura lieu à arbitrage entre elles, les Parties contractantes s'engagent à conclure, dans un délai de trois mois à compter du jour où l'une des Parties aura adressé à l'autre la demande d'arbitrage, un compromis spécial concernant l'objet du conflit, ainsi que les modalités de la procédure.

Si ce compromis ne peut être conclu dans le délai prévu, il y sera obligatoirement suppléé conformément à la procédure prévue au titre IV de la Convention de La Haye de 18 octobre 1907, pour le règlement pacifique des conflits internationaux, qui régira, dans ce cas, le cours à l'arbitrage.

#### DISPOSITIONS GÉNÉRALES

ART. 21. Si la Cour Permanente de Justice Internationale ou le Tribunal arbitral établissait qu'une décision d'une instance judiciaire ou de toute autre autorité relevant

notify such request forthwith to the other Party.

The procedure laid down in paragraph 2 of Article 7 and in Articles 8 to 16 of the present Treaty shall be applicable.

ART. 19. In the event of no agreement being reached between the Parties, the dispute shall, at the request of either Party, be submitted for decision to an Arbitral Tribunal consisting, in the absence of any other agreement between the Parties, of five members appointed for each individual case, according to the method laid down in Articles 5 and 6 of the present Treaty for the constitution of the Conciliation Commission. This Arbitral Tribunal shall, in such a case, act as a special referee and shall draw up a settlement which shall be binding upon them.

ART. 20. Should recourse be had to arbitration, the Contracting Parties undertake to conclude, within three months from the day on which one of the Parties shall have addressed to the other a request for arbitration, a special agreement concerning the subject of the dispute and the methods of procedure.

If this agreement cannot be concluded within the time stipulated, the procedure laid down in Chapter IV of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes shall be obligatory and shall in this case govern the recourse to arbitration.

#### GENERAL PROVISIONS

ART. 21. Should the Permanent Court of International Justice or the Arbitral Tribunal find that a decision of a court of law or any other authority of either of the

de l'une des Parties contractantes se trouve entièrement ou partiellement en opposition avec le droit des gens et si le droit constitutionnel de cette Partie ne permettait pas ou ne permettait qu'imparfaitement d'effacer par voie administrative les conséquences de la décision dont il s'agit, la sentence judiciaire ou arbitrale déterminerait la nature et l'étendue de la réparation accordée à la Partie lésée.

ART. 22. Durant la procédure de conciliation, la procédure judiciaire ou la procédure arbitrale, les Parties contractantes s'abstiendront de toute mesure pouvant avoir une répercussion sur l'acceptation des propositions de la Commission de Conciliation ou sur l'exécution de l'arrêt de la Cour Permanente de Justice Internationale ou de la sentence du Tribunal arbitral. A cet effet, la Commission de Conciliation, la Cour de Justice et le Tribunal arbitral ordonneront, le cas échéant, quelles mesures provisionnelles doivent être prises.

ART. 23. Les contestations qui surgiraient au sujet de l'interprétation ou de l'exécution du présent Traité seront, sauf accord contraire, soumises directement à la Cour Permanente de Justice Internationale par voie de simple requête.

ART. 24. Le présent traité sera ratifié. Les instruments de ratification en seront échangés à Bruxelles, dans le plus bref délai possible.

Le présent Traité entrera en vigueur à la date de l'échange des ratifications et aura une durée de dix ans à partir de cette date. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il sera considéré comme renouvelé pour une

Contracting Parties is wholly or in part contrary to international law, and if the constitutional law of that Party does not permit or only partially permits the consequences of the decision in question to be annulled by administrative action, the judicial decision or arbitral award should indicate the nature and extent of the compensation to be granted to the injured Party.

ART. 22. During the course of proceedings of conciliation, judicial settlement or arbitration, the Contracting Parties shall abstain from all measures likely to exert any influence on the acceptance of the proposals of the Conciliation Commission or the execution of the judgment of the Permanent Court of International Justice or the award of the Arbitral Tribunal. For this purpose the Conciliation Commission, the Court of Justice and the Arbitral Tribunal shall, if necessary, lay down the provisional measures to be adopted.

ART. 23. Any disputes arising as to the interpretation or execution of the present Treaty shall, in the absence of any agreement to the contrary, be submitted direct to the Permanent Court of International Justice by a simple application.

ART. 24. The present Treaty shall be ratified and the instruments of ratification shall be exchanged at Brussels as soon as possible.

The present Treaty shall come into force on the date of exchange of ratifications and shall remain in force for ten years from that date. Unless denounced six months before the expiration of that period,

période de dix années, et ainsi de suite.

Si, lors de l'expiration du présent Traité, une procédure de conciliation, de règlement judiciaire ou d'arbitrage se trouve pendante, elle suivra son cours jusqu'à son achèvement, conformément aux stipulations du présent Traité.

Le présent Traité abroge le Traité d'arbitrage conclu entre les Parties contractantes le 23 janvier 1905.

En foi de quoi, les Plénipotentiaires susnommés ont signé le présent Traité et y ont apposé leur cachet.

Fait à Bruxelles, en double exemplaire, le 19 juillet 1927.

E. Vandervelde  
Emilio de Palacios

it shall be regarded as renewed for a period of ten years, and similarly thereafter.

If, at the time of the expiration of the present Treaty, proceedings of conciliation, judicial settlement or arbitration are pending, they shall pursue their course until their completion in accordance with the stipulations of the present Treaty.

The present Treaty abrogates the Treaty of Arbitration concluded between the Contracting Parties on January 23, 1905.

In faith whereof the above-named Plenipotentiaries have signed the present Treaty and have thereto affixed their seals.

Done in duplicate at Brussels on July 19, 1927.

E. Vandervelde  
Emilio de Palacios

#### FINAL PROTOCOL

Aucune contestation n'existant actuellement entre les deux Etats, les Parties contractantes en signant le présent Traité n'ont fait aucune déclaration concernant l'application rétroactive du Traité, puisque cette question ne se pose pas; toutefois il est entendu que les engagements que stipule ce Traité seront applicables aux contestations portant sur l'interprétation de tout Traité antérieur encore en vigueur, dont, après la signature de présent Traité de Conciliation, de Règlement Judiciaire et d'Arbitrage, il serait fait par l'une des Parties une application que l'autre Partie jugerait non conforme à ses droits. Il en serait encore ainsi si l'application incriminée avait commencé dès avant la signature du présent Traité et se poursuivait après la dite signature.

Since no disputes at present exist between the two States, the Contracting Parties have not, on signing the present Treaty, made any declaration regarding the retroactive application thereof seeing that such a question does not arise. It is, however, understood that the obligations prescribed in this Treaty shall apply to disputes regarding the interpretation of any previous treaty still in force which, after the signature of the present Treaty of Conciliation, Judicial Settlement and Arbitration, is applied by one of the Parties in a manner which the other Party deems contrary to its rights. This shall also hold good if the action complained of has been initiated before the signature of the present Treaty and should continue after its signature.

En foi de quoi, les Plénipotentiaires ont signé le présent protocole.

Fait à Bruxelles, en double exemplaire, le 19 juillet 1927.

E. Vandervelde  
Emilio de Palacios

In faith whereof the Plenipotentiaries have signed the present Protocol.

Done in duplicate at Brussels on July 19, 1927.

E. Vandervelde  
Emilio de Palacios

#### PERMANENT COMMISSION OF CONCILIATION

##### *President appointed by both Parties*

KNUT H. L. HAMMARSKJÖLD, former Prime Minister of Sweden. (*Swedish.*)

##### *Members appointed by both Parties*

JAMES RICHARD ATKIN, BARON ATKIN OF ABERDOVEY, Lord of Appeal in Ordinary. (*British.*)

COUNT M. ROSTWOROWSKI. (*Polish.*)

##### *Member appointed by Belgium*

COUNT HENRY CARTON DE WIART, Doctor of Law, former Belgian Minister of Justice. (*Belgian.*)

##### *Member appointed by Spain*

MARQUÉS DE AMPOSTA. (*Spanish.*)

#### No. 86

### COLOMBIA-SWITZERLAND: TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Berne August 20, 1927; ratifications not yet exchanged.

Original text from *Message du Conseil fédéral suisse*, No. 2261, November 11, 1927; English translation by a translator of the Secretariat of the League of Nations.

##### *(Translation)*

Le Conseil fédéral suisse et Le Président de la République de Colombie

Animés du désir de resserrer les liens d'amitié qui unissent la Suisse et la Colombie et de soumettre à un règlement pacifique les différends qui viendraient à s'élever entre les deux Pays,

ont résolu de conclure à cet effet un traité et ont désigné leurs Plénipotentiaires, savoir:

Le Conseil Fédéral Suisse:

The Swiss Federal Council and the President of the Republic of Colombia, desirous of strengthening the ties of friendship that unite Switzerland and Colombia, and of settling by peaceful means such disputes as may arise between the two countries,

have resolved to conclude a treaty for that purpose, and have appointed their Plenipotentiaries, that is to say:

The Swiss Federal Council:

Monsieur Giuseppe Motta, Président de la Confédération, Chef du Département Politique Fédéral,

Le Président de la République de Colombie:

Son Excellence Monsieur Francisco J. de Urrutia, Envoyé extraordinaire et Ministre plénipotentiaire de Colombie en Suisse,

lesquels, après s'être fait connaître leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Tous différends, de quelque nature qu'ils soient, qui s'élèveraient entre les deux Etats et ne pourraient être résolus par la voie diplomatique dans un délai raisonnable seront soumis, à la demande d'une des Parties contractantes, à une procédure de conciliation.

En cas d'échec de la procédure de conciliation, le différend sera déferé, à la demande d'une Partie, à une procédure judiciaire ou arbitrale conformément à l'article 13 du présent traité.

Les Parties contractantes auront néanmoins la faculté de convenir qu'un litige déterminé sera réglé par voie de règlement judiciaire ou par voie d'arbitrage sans recours au préliminaire de conciliation.

ART. 2. La conciliation sera confiée à une Commission de trois membres constituée, de cas en cas, par les Parties contractantes.

Les Parties contractantes désigneront chacune un membre à leur gré et nommeront d'un commun accord le troisième membre, qui sera de plein droit le Président de la Commission, parmi les ressortissants d'Etats tiers. Le commissaire ainsi désigné en commun ne devra pas avoir son domicile sur le

Monsieur Giuseppe Motta, President of the Confederation, Head of the Federal Political Department;

The President of the Republic of Colombia:

His Excellency Monsieur Francisco J. de Urrutia, Envoy Extraordinary and Minister Plenipotentiary of Colombia in Switzerland;

who, having communicated to each other their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1. All disputes, of whatever nature they may be, that may arise between the two States and that cannot be settled through the diplomatic channel within a reasonable time, shall, at the request of one of the Contracting Parties, be submitted to a procedure of conciliation.

Should the procedure of conciliation fail, the dispute shall, at the request of either Party, be referred to a judicial or arbitration procedure as provided in Article 13 of the present treaty.

The Contracting Parties shall, however, have the option of agreeing that any particular dispute shall be settled by a judicial settlement or by arbitration without resort being made to the preliminary procedure of conciliation.

ART. 2. The conciliation shall be intrusted to a Commission of three members constituted by the Contracting Parties for each separate case.

Each of the Contracting Parties shall appoint a member of its own choice, and the Parties jointly shall appoint the third member, who shall be *ex officio* President of the Commission, from among the nationals of third States. The Commissioner thus jointly appointed

territoire des Parties contractantes ni se trouver à leur service.

La Commission de conciliation sera constituée dans les trois mois à compter du jour où l'une des Parties aura fait part à l'autre de son intention de recourir à la conciliation.

Si le commissaire à désigner en commun n'est pas nommé dans ce délai, il sera nommé, à la demande d'une seule des Parties, par le Président de la Cour permanente de Justice internationale ou, si celui-ci est ressortissant de l'un des Etats contractants, par le Vice-Président ou par le membre le plus âgé de la Cour qui n'est pas ressortissant de l'un des Etats contractants.

ART. 3. La Commission de conciliation aura pour tâche d'élucider les questions faisant l'objet du différend et de formuler, dans un rapport, des propositions en vue du règlement de la contestation.

La Commission sera saisie sur requête adressée à son Président par l'une des Parties contractantes. Notification de cette requête sera faite, en même temps, à la Partie adverse par la Partie dont elle émane.

ART. 4. La Commission de conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son Président.

ART. 5. La procédure devant la Commission de conciliation sera contradictoire.

La Commission réglera elle-même la procédure, en tenant compte, sauf décision contraire prise à l'unanimité, des dispositions contenues au titre III de la Convention de La Haye pour le règlement pacifique des conflits internationaux, du 18 octobre 1907.

must not be domiciled in the territory of the Contracting Parties nor employed in their service.

The Conciliation Commission shall be set up within three months reckoned from the day on which one of the Parties has informed the other of its intention to resort to the procedure of conciliation.

If the Commissioner to be appointed jointly is not appointed within that period, he shall be nominated, at the request of either Party, by the President of the Permanent Court of International Justice, or, if the latter is a national of one of the Contracting States, by the Vice-President or by the senior member of the Court who is not a national of either of the Contracting States.

ART. 3. The task of the Conciliation Commission shall be to elucidate the questions forming the subject of the dispute, and to formulate proposals, in a report, with a view to the settlement of the case.

The Commission shall be informed by a request addressed to its President by one of the Contracting Parties. Notice of such request shall at the same time be given by the applicant Party to the opposing Party.

ART. 4. Unless the Parties otherwise agree, the Conciliation Commission shall meet at the place selected by its President.

ART. 5. In proceedings before the Conciliation Commission both Parties shall be heard.

The Commission shall decide upon its own procedure, adhering, unless it unanimously decides to the contrary, to the provisions of Chapter III of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 6. Les délibérations de la Commission de conciliation auront lieu à huis clos, à moins que la Commission, d'accord avec les Parties, n'en décide autrement.

ART. 7. Les Parties contractantes auront le droit de nommer, auprès de la Commission de conciliation, des agents spéciaux qui serviront, en même temps, d'intermédiaires entre elles et la Commission.

ART. 8. Sous réserve de l'article 5, alinéa 2, les décisions de la Commission de conciliation seront prises à la majorité simple des voix.

ART. 9. Les Parties contractantes s'engagent à faciliter, dans la plus large mesure possible, les travaux de la Commission de conciliation et, en particulier, à user de tous les moyens dont elles disposent, d'après leur législation intérieure, pour lui permettre de procéder, sur leur territoire, à la citation et à l'audition de témoins ou d'experts, ainsi qu'à des descentes sur les lieux.

ART. 10. La Commission de conciliation présentera son rapport dans les six mois à compter du jour où elle aura été saisie du différend, à moins que les Parties contractantes ne décident, d'un commun accord, de proroger ce délai. Un exemplaire du rapport sera remis à chacune des Parties.

Le rapport de la Commission n'aura, ni en ce qui concerne l'exposé des faits, ni en ce qui concerne les considérations juridiques, le caractère d'une sentence arbitrale.

ART. 11. La Commission de conciliation fixera le délai dans lequel les Parties auront à se prononcer à l'égard de ses propositions. Ce délai n'excédera pas, toutefois, la durée de trois mois.

ART. 6. The proceedings of the Conciliation Commission shall be held in private, unless the Commission, in agreement with the Parties, decides otherwise.

ART. 7. The Contracting Parties shall have the right to accredit to the Conciliation Commission special agents who shall at the same time act as intermediaries between them and the Commission.

ART. 8. Except as otherwise provided in Article 5, paragraph 2, the decisions of the Conciliation Commission shall be taken by a simple majority vote.

ART. 9. The Contracting Parties undertake to give all possible assistance to the Conciliation Commission in its work, and in particular to use all the means at their disposal, under their internal laws, to enable the Commission to proceed to summon and hear witnesses or experts in their territory and to visit the localities in question.

ART. 10. The Conciliation Commission shall make its report within six months from the day on which the dispute was laid before it, unless the Contracting Parties decide by joint agreement to extend this time-limit. One copy of the report shall be delivered to each of the Parties.

Neither as regards the statement of the facts nor as regards the legal considerations shall the report of the Commission bear the character of an arbitral award.

ART. 11. The Conciliation Commission shall fix the period within which the Parties will be required to come to a decision as regards its proposals. This period shall not, however, exceed three months.



ART. 12. Pendant la durée des travaux de la Commission de conciliation, les commissaires recevront une indemnité dont le montant sera arrêté entre les Parties contractantes.

Chaque Partie supportera ses propres frais et une part égale des frais de la Commission.

ART. 13. Si l'une des Parties n'accepte pas les propositions de la Commission de conciliation ou ne se prononce pas dans le délai fixé dans le rapport, chacune d'elles pourra recourir, par voie de simple requête, à la Cour permanente de Justice internationale au cas où, conformément à l'article 36, alinéa 2, du Statut de la Cour, le différend aurait pour objet :

- (a) l'interprétation d'un traité;
- (b) tout point de droit international;
- (c) la réalité de tout fait qui, s'il était établi, constituerait la violation d'un engagement international;
- (d) la nature ou l'étendue de la réparation due pour la rupture d'un engagement international.

En cas de contestation sur la question de savoir si le différend est susceptible d'un règlement judiciaire au sens de l'alinéa qui précède, la Cour de Justice décide.

Tous autres litiges seront réglés, à la demande d'une Partie, par voie d'arbitrage dans les conditions prévues à l'article 14 du présent traité.

ART. 14. Le recours à l'arbitrage sera régi par la Convention de La Haye pour le règlement pacifique des conflits internationaux, du 18 octobre 1907.

A défaut de constitution du tribunal arbitral par l'accord des Par-

ART. 12. During the proceedings of the Conciliation Commission, the Commissioners shall receive an allowance, the amount of which shall be agreed upon by the Contracting Parties.

Each Party shall bear its own costs and half the costs of the Commission.

ART. 13. If one of the Parties does not accept the proposals of the Conciliation Commission, or does not come to a decision within the time-limit laid down in the report, either Party may resort to the Permanent Court of International Justice by making a simple application, provided that, in accordance with Article 36, paragraph 2, of the Statute of the Court, the dispute relates to:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation.

Should there be any dispute as to whether the dispute is capable of judicial settlement within the meaning of the previous paragraph, the Court of Justice shall decide.

All other disputes shall be dealt with, at the request of either Party, by arbitration under the conditions laid down in Article 14 of the present treaty.

ART. 14. The appeal to arbitration shall be governed by the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

If the arbitral tribunal is not constituted by agreement between the

ties dans les trois mois à compter du jour où l'une d'elles a demandé l'arbitrage, le tribunal arbitral comprendra cinq arbitres choisis sur la liste des membres de la Cour permanente d'Arbitrage à La Haye. Les Parties nommeront chacune un arbitre à leur gré; elles désigneront les trois autres d'un commun accord et, parmi ceux-ci, le surarbitre. Ces trois arbitres ne devront, ni être des ressortissants des Parties contractantes, ni avoir leur domicile sur leur territoire ou se trouver à leur service.

Si la nomination des arbitres à désigner en commun ou la désignation du surarbitre n'intervient pas dans les six mois à compter du jour où l'une des Parties a demandé l'arbitrage, il sera procédé aux nominations conformément à l'article 45 de la Convention de La Haye pour le règlement pacifique des conflits internationaux, du 18 octobre 1907.

ART. 15. Durant le cours de la procédure de conciliation ou de la procédure judiciaire ou arbitrale, les Parties contractantes s'abstiendront de toute mesure pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission de conciliation ou sur l'exécution de l'arrêt de la Cour permanente de Justice internationale ou de la sentence du tribunal arbitral.

ART. 16. Les contestations qui surgiraient au sujet de l'interprétation ou de l'exécution du présent traité seront, sauf accord contraire entre les Parties, soumises à la Cour permanente de Justice internationale par voie de simple requête.

ART. 17. Le présent traité sera ratifié. Les instruments de ratifi-

Parties within three months from the day on which one of them applied for arbitration, the arbitral tribunal shall be composed of five arbitrators chosen from the list of members of the Permanent Court of Arbitration at the Hague. Each of the Parties shall appoint one arbitrator of its own choice, and the Parties jointly shall select the other three arbitrators, one of whom shall be chosen President of the Court. These three arbitrators must not be nationals of the Contracting Parties, nor domiciled in their territory, nor employed in their service.

If the arbitrators to be appointed jointly are not appointed, or the President of the Court not selected, within six months from the day on which one of the Parties asked for arbitration, the appointments shall be made as provided in Article 45 of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 15. During the course of the procedure of conciliation, judicial settlement, or arbitration, the Contracting Parties shall refrain from taking any measure that might have a prejudicial influence on the acceptance of the proposals of the Conciliation Commission or on the execution of the judgment of the Permanent Court of International Justice or the award of the arbitral tribunal.

ART. 16. Any disputes that may arise as to the interpretation or execution of the present treaty shall, unless the Parties otherwise agree, be laid before the Permanent Court of International Justice by a simple application.

ART. 17. The present treaty shall be ratified. The instruments of

cation en seront échangés à Berne dans le plus bref délai possible.

Le traité entrera en vigueur dès l'échange des ratifications. Il est conclu pour la durée de dix ans à compter de son entrée en vigueur. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il est censé renouvelé pour une nouvelle période de cinq ans, et ainsi de suite.

Si, lors de l'expiration du présent traité, une procédure de conciliation ou une procédure judiciaire ou arbitrale se trouvait pendante, elle suivra son cours conformément aux dispositions du présent traité.

En foi de quoi, les Plénipotentiaires ont signé le présent traité.

Fait, en double exemplaire, à Berne, le vingt août mil neuf cent vingt-sept.

Motta  
de Urrutia

ratification shall be exchanged at Berne as soon as possible.

The treaty shall come into force upon the exchange of ratifications. It is concluded for a term of ten years from its entry into force. Unless denounced six months before the expiration of that period, it shall be deemed to be renewed for a further period of five years, and similarly thereafter.

If, at the expiration of the present treaty, proceedings of conciliation or judicial or arbitral proceedings should be pending, they shall take their course in accordance with the provisions of the present treaty.

In witness whereof the Plenipotentiaries have signed the present treaty.

Done in duplicate at Berne this twentieth day of August, one thousand nine hundred and twenty-seven.

Motta  
de Urrutia

#### COMMISSION OF CONCILIATION

Not permanent. A Commission of three members will be constituted for each particular case.

## No. 87

## COLOMBIA-SWEDEN: TREATY OF CONCILIATION

Signed at London September 13, 1927; ratifications not yet exchanged.

Sa Majesté le Roi de Suède et son Excellence Monsieur le Président de la République de Colombie, animés du désir de développer les relations amicales qui unissent les deux pays,

décidés à donner, dans leurs rapports réciproques, une large application aux principes dont s'inspire la Société des Nations, ont résolu de conclure un Traité de conciliation et ont nommé à cet effet pour leurs Plénipotentiaires, savoir:

Sa Majesté le Roi de Suède:

Son Excellence Monsieur le Baron Erik Kule Palmstierna, Son Envoyé Extraordinaire et Ministre Plénipotentiaire à Londres,

Son Excellence Monsieur Le Président de la République de Colombie:

Son Excellence Señor Dr. Don Luis Cuervo Márquez, Envoyé Extraordinaire et Ministre Plénipotentiaire de la République à Londres;

lesquels, après avoir échangé leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes.

ARTICLE 1<sup>er</sup>. Les Parties contractantes s'engagent à soumettre à une Commission permanente de conciliation, constituée dans les conditions prévues ci-dessous, tous différends, de quelque nature qu'ils soient, qui n'auraient pu être résolus par la voie diplomatique et qui ne doivent pas être déferés aux termes, soit du statut de la Cour permanente de Justice internationale, soit de tout autre accord conclu entre Elles, à la dite Cour ou à un tribunal d'arbitrage.

Il appartiendra à chacune des Parties de décider du moment à partir duquel la procédure de conciliation pourra être substituée aux négociations diplomatiques.

ART. 2. Si un différend, dont l'une des Parties a saisi la Commission, est porté par l'autre Partie, conformément aux dispositions visées à l'article premier, devant la Cour permanente ou un tribunal d'arbitrage, la Commission suspendra l'examen du différend jusqu'à ce que la Cour ou le tribunal ait statué sur la compétence.

ART. 3. S'il s'agit d'une contestation dont l'objet, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux de celle-ci, y compris les tribunaux administratifs, cette Partie pourra s'opposer à ce que le différend soit soumis à la procédure prévue par le présent Traité avant qu'un jugement passé en force de chose jugée ne soit rendu, dans des délais établis par les législations intérieures respectives, par l'autorité judiciaire nationale compétente.

ART. 4. La Commission sera composée de cinq membres, qui seront désignés comme il suit, savoir: le Gouvernement suédois et le Gouverne-

ment colombien nommeront chacun un commissaire choisi parmi leurs nationaux respectifs et désigneront, d'un commun accord, les trois autres commissaires parmi les ressortissants de tierces Puissances; ces trois commissaires devront être de nationalités différentes et, parmi eux, les Gouvernements suédois et colombien désigneront le Président de la Commission.

Les commissaires sont nommés pour trois ans; leur mandat est renouvelable. Ils resteront en fonctions jusqu'à leur remplacement et, dans tous les cas, jusqu'à l'achèvement de leurs travaux en cours au moment de l'expiration de leur mandat.

Il sera pourvu, dans le plus bref délai, aux vacances qui viendraient à se produire, par suite de décès, de démission ou de quelque autre empêchement, en suivant le mode fixé pour les nominations.

ART. 5. La Commission sera constituée dans les six mois qui suivront l'entrée en vigueur du présent Traité.

Si la nomination des commissaires à désigner en commun n'intervenait pas dans ledit délai, ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, le Président de la Cour permanente de Justice internationale, ou, si celui-ci est ressortissant d'un des Etats contractants, le Vice-Président de la Cour sera, à défaut d'autre entente, prié de procéder aux désignations nécessaires.

ART. 6. La Commission sera saisie, par voie de requête adressée au Président, par les deux Parties agissant d'un commun accord ou, à défaut, par l'une ou l'autre des Parties.

La requête, après avoir exposé sommairement l'objet du litige, invitera la Commission à ouvrir la procédure de conciliation.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à la Partie adverse.

ART. 7. Dans un délai de 30 jours à partir de la date où le Gouvernement suédois ou le Gouvernement colombien aurait porté une contestation devant la Commission, chacune des Parties pourra, pour l'examen de cette contestation, remplacer son commissaire par une personne possédant une compétence spéciale dans la matière.

La partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie; celle-ci aura, dans ce cas, la faculté d'agir de même, dans un délai de 30 jours à partir de la date où la notification lui sera parvenue.

ART. 8. La Commission aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles, par voie d'enquête ou autrement, et de s'efforcer de concilier les Parties. Elle fera un rapport sur chaque différend qui lui a été soumis. Le rapport comportera un projet de règlement du différend, si les circonstances y donnent lieu et si trois au moins des membres de la Commission se mettent d'accord sur un tel projet.

L'avis motivé des membres restés en minorité sera consigné dans le rapport.

Le rapport n'a, ni en ce qui concerne l'exposé des faits, ni en ce qui concerne les considérations juridiques, le caractère d'une sentence arbitrale.

Le rapport est signé par le Président et porté sans délai à la connais-

sance des Parties; la Commission pourra impartir à celles-ci un délai pour se prononcer.

Les travaux de la Commission devront, à moins que les Parties en conviennent différemment, être terminés dans le délai de six mois à compter du jour où la Commission aura été saisie du litige.

ART. 9. A moins de stipulation spéciale contraire, la Commission réglera elle-même sa procédure qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la Commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du titre III (Commissions internationales d'enquête) de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 10. La Commission se réunira, sauf accord contraire entre les Parties, au siège de la Société des Nations.

ART. 11. Les travaux de la Commission ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties.

ART. 12. Les Parties seront représentées auprès de la Commission par des agents ayant mission de servir d'intermédiaire entre elles et la Commission; elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraît utile.

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties, ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement.

ART. 13. Sauf disposition contraire du présent Traité, les décisions de la Commission seront prises à la majorité des voix. Chaque membre disposera d'une voix; en cas de partage, la voix du Président sera décisive.

La Commission ne pourra prendre des décisions portant sur le fond du différend que si tous les membres ont été dûment convoqués et si le Président et deux membres au moins sont présents.

ART. 14. Les Gouvernements suédois et colombien s'engagent à faciliter les travaux de la Commission et, en particulier, à lui fournir dans la plus large mesure possible tous documents et informations utiles, ainsi qu'à user des moyens dont ils disposent pour lui permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

ART. 15. Pendant la durée des travaux de la Commission, chacun des commissaires recevra une indemnité dont le montant sera arrêté, d'un commun accord, entre les Gouvernements suédois et colombien.

Chaque Gouvernement supportera ses propres frais et une part égale des frais communs de la Commission, les indemnités des commissaires étant comprises parmi ces frais communs.

ART. 16. Les Gouvernements suédois et colombien s'engagent à s'abstenir, durant le cours d'une procédure ouverte en vertu des disposi-

tions du présent Traité, de toute mesure susceptible d'avoir une répercussion préjudiciable aux arrangements proposés par la Commission, et en général à ne procéder à aucun acte, de quelque nature qu'il soit, susceptible d'aggraver ou d'étendre le différend.

ART. 17. Tous différends relatifs à l'interprétation du présent Traité seront soumis à la Cour permanente de Justice internationale.

ART. 18. Le présent Traité sera ratifié et les ratifications seront échangées à Londres aussitôt que faire se pourra.

Le Traité est conclu pour une durée de dix ans à compter de la date de l'échange des ratifications. S'il n'est pas dénoncé six mois avant l'expiration de ce terme, il demeurera en vigueur pour une nouvelle période de cinq ans et ainsi de suite.

En foi de quoi, les Plénipotentiaires ont signé le présent Traité.

Fait à Londres, en double exemplaire, le 13 septembre 1927.

Erik Palmstierna  
Luis Cuervo Márquez

#### COMMISSION OF CONCILIATION

No information available.

## No. 88

ITALY-LITHUANIA: TREATY OF CONCILIATION,  
ARBITRATION, AND COMPULSORY  
ADJUDICATION

Signed at Rome September 17, 1927, ratifications exchanged February 22, 1928

Original text and English translation from *League of Nations, Treaty Series*, LXXII, 440-448

(Translation)

Sa Majesté le Roi d'Italie et le Président de la République de Lithuanie, pénétrés de l'esprit de cordialité qui caractérise les rapports entre l'Italie et la Lithuanie, ont résolu de conclure un traité pour le règlement amiable des différends qui pourraient s'élever entre les deux pays, et ont nommé à cet effet leurs plénipotentiaires, savoir

Sa Majesté le Roi d'Italie  
Son Excellence le chevalier Benito Mussolini, chef du gouvernement, premier ministre secrétaire d'Etat, ministre d'Etat pour les Affaires étrangères,

Le Président de la République de Lithuanie

Son Excellence Monsieur Augustinas Voldemaras, président du Conseil des Ministres, ministre des Affaires étrangères,

Lesquels, après communication des pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes

ARTICLE 1<sup>er</sup> Les Parties contractantes s'engagent à soumettre à une procédure de conciliation tous les différends, de quelque nature qu'ils soient, qui s'élèveraient entre elles et n'auraient pu être résolus par la voie diplomatique dans un délai raisonnable

His Majesty the King of Italy and the President of the Lithuanian Republic, animated by the spirit of cordiality which characterises the relations between Italy and Lithuania, have decided to conclude a Treaty for the friendly settlement of any disputes which may arise between the two countries,

And have appointed as their Plenipotentiaries for this purpose,

His Majesty the King of Italy  
His Excellency Benito Mussolini, Head of the Government, Prime Minister and Secretary of State, Secretary of State for Foreign Affairs,

The President of the Lithuanian Republic

His Excellency Augustinas Voldemaras, President of the Council of Ministers, Minister for Foreign Affairs,

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions

ARTICLE I The Contracting Parties undertake to submit to a procedure of conciliation all disputes of any nature whatever which may arise between them and which it may not have been possible to settle within a reasonable time by diplomacy.



En cas d'échec de la procédure de conciliation, un règlement judiciaire sera recherché conformément aux articles 16 et suivants du présent traité.

Demeurent réservés les différends pour la solution desquels une procédure spéciale est prescrite par d'autres conventions en vigueur entre les Parties contractantes.

ART. 2. S'il s'agit d'un différend qui, à teneur de la législation intérieure de l'une des Parties, relève de la compétence des tribunaux, la Partie défenderesse pourra s'opposer à ce qu'il soit soumis à une procédure de conciliation et, le cas échéant, à un règlement judiciaire avant qu'un jugement définitif ait été rendu par l'autorité judiciaire compétente.

La demande de conciliation devra, dans ce cas, être formée dans une année, au plus tard à compter de ce jugement.

ART. 3. Les Parties contractantes institueront une commission permanente de conciliation composée de cinq membres.

Elles nommeront chacune un membre à leur gré et désigneront les trois autres d'un commun accord. Ces trois membres ne devront, ni être des ressortissants des Parties contractantes, ni avoir leur domicile sur leur territoire ou se trouver à leur service.

Le président de la commission sera nommé, d'un commun accord, parmi les membres désignés en commun.

Tant que la procédure n'est pas ouverte, chacune des Parties contractantes aura le droit de révoquer le commissaire nommé par elle et de lui désigner un successeur, comme aussi de retirer son consentement à la nomination de chacun des trois membres désignés en

In the event of the procedure of conciliation proving unsuccessful, a judicial settlement shall be sought in conformity with Articles 16 *et seq.* of the present Treaty.

The above shall not apply to disputes for the settlement of which a special procedure is laid down in other Conventions in force between the Contracting Parties.

ART. 2. In the case of a dispute which, according to the domestic legislation of one of the Parties, comes within the jurisdiction of the Courts, the defendant Party may oppose the submission of the dispute to a procedure of conciliation or, if necessary, to judicial settlement, until a final judgment has been given by the competent judicial authority.

In this case the request for conciliation must be made within a year at most from the date of such judgment.

ART. 3. The Contracting Parties shall establish a Permanent Conciliation Commission composed of five members.

Each Party shall nominate one member of its own choosing, the other three being appointed by joint agreement. The latter may not be nationals of the Contracting States nor be domiciled in their territory nor be employed in their service.

The President of the Commission shall be appointed by agreement from among the jointly selected members.

So long as the procedure has not begun, each Contracting Party shall have the right to withdraw the commissioner appointed by it and to replace him by another, and also to withdraw its consent to the appointment of any of the three members nominated jointly. In

*commun.* Dans ce cas, il y aura lieu de procéder sans délai au remplacement des membres dont le mandat a pris fin.

Il sera pourvu au remplacement des commissaires selon le mode fixé pour leur nomination.

ART. 4. La commission sera constituée dans les six mois qui suivront l'échange des ratifications du présent traité.

Si la nomination des membres à désigner en commun n'intervient pas dans ce délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, il sera procédé aux nominations conformément à l'article 45 de la Convention de la Haye pour le règlement pacifique des conflits internationaux du 18 octobre 1907.

ART. 5. La Commission permanente de conciliation aura pour tâche de faciliter la solution du différend en éclaircissant, par un examen impartial et consciencieux, les questions de fait et en formulant des propositions en vue du règlement de la contestation.

Elle sera saisie sur requête adressée à son président par l'une des Parties contractantes.

Notification de cette requête sera faite, en même temps, à la partie adverse par la partie qui demande l'ouverture de la procédure de conciliation.

ART. 6. La Commission se réunira, sauf convention contraire, au lieu désigné par son président.

ART. 7. La procédure devant la Commission sera contradictoire.

La Commission réglera elle-même la procédure en tenant compte, sauf décision contraire prise à l'unanimité, des dispositions contenues au titre III de la Con-

this case the members whose mandate is terminated shall be replaced without delay.

Commissioners shall be replaced in the manner fixed for their appointment.

ART. 4. The Commission shall be set up within six months after the ratifications of the present Treaty have been exchanged.

If the appointment of the members to be nominated jointly is not made within this period or, in case of their replacement within three months after the vacancy occurs, such appointments shall be made in accordance with Article 45 of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 5. The task of the Permanent Conciliation Commission shall be to facilitate the settlement of the dispute by elucidating questions of fact by means of an impartial and conscientious examination, and by formulating proposals with a view to settling the dispute.

The Commission shall be informed by means of a request addressed to its president by one of the Contracting Parties.

This request shall be notified at the same time to the other Party by the Party which applies for the opening of the procedure of conciliation.

ART. 6. The Commission shall meet, in the absence of an agreement to the contrary, at a place chosen by its president.

ART. 7. In proceedings before the Commission both Parties shall be heard.

The Commission shall lay down its own procedure, regard being had, unless the Commission decides unanimously to the contrary, to the

vention de La Haye pour le règlement pacifique des conflits internationaux du 18 octobre 1907.

ART. 8. Les délibérations de la Commission auront lieu à huis clos, à moins que la Commission, d'accord avec les Parties, n'en décide autrement.

ART. 9. Les Parties contractantes auront le droit de nommer auprès de la Commission des agents spéciaux, qui serviront, en même temps, d'intermédiaires entre elles et la Commission.

ART. 10. Sauf dispositions contraires du présent traité, les décisions de la Commission seront prises à la majorité simple des voix.

ART. 11. Les Parties contractantes s'engagent à faciliter dans la plus large mesure possible, les travaux de la Commission, et, en particulier, à user de tous les moyens dont elles disposent, d'après leur législation intérieure, pour lui permettre de procéder, sur leur territoire, à la citation et à l'audition de témoins ou d'experts, ainsi qu'à des descentes sur les lieux.

ART. 12. La Commission présentera son rapport dans les six mois à compter du jour où elle aura été saisie du différend, à moins que les Parties contractantes ne décident, d'un commun accord, de proroger ce délai.

Un exemplaire du rapport sera remis à chacune des Parties.

Le rapport de la Commission n'aura, ni en ce qui concerne l'exposé des faits ni en ce qui concerne les considérations juridiques, le caractère d'une sentence arbitrale.

ART. 13. La Commission de conciliation fixera le délai dans lequel

provisions of Chapter III of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 8. The deliberations of the Commission shall be private, unless the Commission decides otherwise in agreement with the Parties.

ART. 9. The Contracting Parties shall be entitled to appoint special agents to the Commission. These agents shall also act as intermediaries between the Parties and the Commission.

ART. 10. The Commission shall take its decisions by a simple majority vote except as otherwise laid down in the present Treaty.

ART. 11. The Contracting Parties undertake to give the Commission all possible assistance in its work and, in particular, to use all the means at their disposal under their domestic legislation to allow it to proceed in their territory to the summoning and hearing of witnesses or experts<sup>1</sup> to visit the localities in ques<sup>h</sup> shall n

ART. 12. The Commission shall make its report within six months from the day when the dispute is submitted to it unless the Contracting Parties agree to extend this period.

A copy of the report shall be sent to each Party.

The Commission's report shall not be in the nature of an arbitral award, as regards either the statement of facts or the legal considerations.

ART. 13. The Conciliation Commission shall fix the period within

les Parties auront à se prononcer à l'égard de ses propositions.

Ce délai n'excédera pas toutefois la durée de quatre mois.

ART. 14. Pendant la durée effective de la procédure, les membres de la Commission de conciliation recevront une indemnité dont le montant sera arrêté entre les Parties contractantes.

Chaque Partie supportera ses propres frais et une part égale des frais de la Commission.

ART. 15. Avant la solution d'un différend le rapport de la Commission ne pourra être publié par l'une des Parties sans le consentement de l'autre.

ART. 16. Si l'une des Parties n'accepte pas les propositions de la Commission permanente de conciliation, ou ne se prononce pas dans le délai fixé par son rapport, chacune d'elles pourra demander que le litige soit soumis à la Cour permanente de Justice internationale.

Dans le cas où, de l'avis de la Cour, le litige ne serait pas d'ordre juridique, les Parties conviennent qu'il sera tranché *ex aequo et bono*.

ART. 17. Les Parties contractantes établiront, dans chaque cas particulier, un compromis spécial déterminant nettement l'objet du différend, les compétences particulières qui pourraient être dévolues à la Cour permanente de justice internationale, ainsi que toutes les autres conditions arrêtées entre elles.

Le compromis sera établi par échange de notes entre les gouvernements et les Parties contractantes.

Il sera interprété en tous points par la Cour de justice.

which the Parties will be required to take a decision as regards the Commission's proposals.

This period shall not, however, exceed four months.

ART. 14. For the actual duration of the procedure the members of the Conciliation Commission shall receive an allowance to be fixed by an arrangement between the Contracting Parties.

Each Party shall bear its own costs and half the costs of the Commission.

ART. 15. Before the settlement of a dispute, the report of the Commission may not be published by one of the Parties without the consent of the other Party.

ART. 16. If one of the Parties does not accept the proposals of the Permanent Conciliation Commission or does not give a decision within the period prescribed in the report, either Party may request that the dispute be submitted to the Permanent Court of International Justice.

If, in the opinion of [the] Court, the case is not of a juridical nature, the Parties shall agree to its being settled *ex aequo et bono*.

ART. 17. In each particular case the contracting Parties shall draw up a special agreement (*compromis*) specifying clearly the subject of the dispute, the particular competence that might devolve upon the Permanent Court of International Justice, and any other conditions fixed between themselves.

The special agreement shall be constituted by an exchange of notes between the Governments of the Contracting Parties.

All points contained therein shall be interpreted by the Court of Justice.

Si le compromis n'est pas arrêté dans les trois mois à compter du jour où l'une des Parties a été saisie d'une demande aux fins de règlement judiciaire, chaque Partie pourra saisir la Cour de justice par voie de simple requête.

If the special agreement is not drawn up within three months from the day on which one of the Parties was requested to submit the matter for judicial settlement, either Party may bring the question before the Court of Justice by a simple application.

ART. 18. Si la Cour permanente de Justice internationale établissait qu'une décision d'une instance judiciaire ou de toute autre autorité relevant de l'une des Parties contractantes se trouve entièrement ou partiellement en opposition avec le droit des gens, et si le droit constitutionnel de cette Partie ne permettait pas ou ne permettait qu'imparfaitement d'effacer par voie administrative les conséquences de la décision dont il s'agit, il serait accordé à la Partie lésée une satisfaction équitable d'un autre ordre.

ART. 18. Should the Permanent Court of International Justice find that a decision of a court of law or other authority of one of the Contracting Parties is wholly or partly at variance with international law, and should the constitutional law of that Party not allow, or only inadequately allow, of the cancellation of this decision by administrative procedure, the Party prejudiced shall be granted equitable satisfaction in some other form.

ART. 19. L'arrêt rendu par la Cour permanente de Justice internationale sera exécuté de bonne foi par les Parties.

ART. 19. The judgment given by the Permanent Court of International Justice shall be executed by the Parties in good faith.

Les difficultés auxquelles son interprétation pourrait donner lieu, seront tranchées par la Cour permanente de Justice internationale, que chacune des Parties pourra saisir à cette fin par voie de simple requête.

Any difficulties regarding the interpretation of the judgment shall be settled by the Permanent Court of International Justice upon a simple application for this purpose by either Party.

ART. 20. Durant le cours de la procédure de conciliation ou de la procédure judiciaire, les Parties contractantes s'abstiendront de toute mesure pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission de conciliation ou sur l'exécution de l'arrêt de la Cour permanente de justice internationale.

ART. 20. During the procedure of conciliation or the judicial procedure, the Contracting Parties shall abstain from all measures which might prejudicially affect the acceptance of the proposals of the Conciliation Commission or the execution of the judgment of the Permanent Court of International Justice.

ART. 21. Les contestations qui surgiraient au sujet de l'interprétation ou de l'exécution du présent

ART. 21. Any disputes which may arise as to the interpretation or the execution of the present

traité seront, sauf convention contraire, soumises directement à la Cour permanente de Justice internationale par voie de simple requête.

ART. 22. Le présent traité ne porte aucune atteinte aux droits et obligations des Parties contractantes en tant que Membres de la Société des Nations, et, par conséquent, il ne limite pas les attributions et la compétence de la Société des Nations.

Néanmoins il reste entendu que tout différend qui pourra surgir entre les Parties contractantes devra d'abord être soumis à la procédure fixée à l'article premier du présent traité, avant d'être soumis au Conseil de la Société des Nations selon l'article 15 du Pacte.

ART. 23. Le présent traité sera ratifié.

Les instruments de ratification en seront échangés à Rome dans le plus bref délai possible.

Le traité entrera en vigueur dès l'échange des ratifications. Il est conclu pour la durée de dix ans à compter de son entrée en vigueur. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il sera censé être renouvelé pour une nouvelle période de cinq ans, et ainsi de suite.

Si une procédure de conciliation ou une procédure judiciaire est pendante, lors de l'expiration du présent traité, elle suivra son cours conformément aux dispositions du présent traité ou de toute autre convention que les Parties contractantes auraient convenu de lui substituer.

En foi de quoi les plénipotentiaires ont signé le présent traité.

Treaty shall, in the absence of an agreement to the contrary, be submitted direct to the Permanent Court of International Justice by a simple application.

ART. 22. The present Treaty shall in no way affect the rights and obligations of the Contracting Parties as Members of the League of Nations, and, in consequence, shall not limit the powers and jurisdiction of the League of Nations.

It is nevertheless understood that any dispute which may arise between the Contracting Parties must first be submitted to the procedure laid down in Article 1 of the present Treaty, before being submitted to the Council of the League of Nations under Article 15 of the Covenant.

ART. 23. The present Treaty shall be ratified.

The instruments of ratification shall be exchanged at Rome as soon as possible.

The Treaty shall come into force as soon as the ratifications have been exchanged. It shall be concluded for ten years as from the date of its coming into force. If it is not denounced six months before the expiration of this period, it shall be deemed to have been renewed for a further period of five years, and similarly thereafter.

If a procedure of conciliation or a judicial procedure is pending at the expiration of the present Treaty, it shall pursue its course in accordance with the provisions of the present Treaty or any other convention which the contracting Parties may have agreed to substitute therefor.

In faith whereof the Plenipotentiaries have signed the present Treaty.

Fait à Rome, en double exemplaire, le dix-sept septembre mil neuf cent vingt-sept.

Benito Mussolini  
Prof. A. Voldemaras

Done at Rome in duplicate on the seventeenth day of September, one thousand nine hundred and twenty-seven.

Benito Mussolini  
Prof. A. Voldemaras

#### PERMANENT COMMISSION OF CONCILIATION

No information available.

#### No. 89

### BELGIUM-LUXEMBURG: TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Brussels October 17, 1927; ratifications not yet exchanged.

Original text communicated by the Minister of State, President of the Government of Luxembourg; English translation by a translator of the Secretariat of the League of Nations.

(Translation)

Son Altesse Royale la Grande-Duchesse de Luxembourg et Sa Majesté le Roi des Belges

S'inspirant des relations de bon voisinage et des liens économiques, intellectuels et moraux qui unissent si heureusement le Grand-Duché de Luxembourg et la Belgique,

Egalement soucieux d'écarter tout ce qui pourrait porter atteinte à leur amitié réciproque, et désireux d'étendre à toutes les contestations qui pourraient surgir entre les deux pays les méthodes de règlement pacifique suivant le droit et la justice, conformes aux principes du Pacte de la Société des Nations,

Ont résolu de conclure un Traité à cet effet, et ont nommé pour leurs plénipotentiaires, savoir:

Son Altesse Royale la Grande-Duchesse de Luxembourg:

M. Bech, Ministre d'État, Président du Gouvernement,

Her Royal Highness the Grand Duchess of Luxembourg and His Majesty the King of the Belgians,

Having regard to the neighborly relations and the economic, intellectual, and moral ties that so happily unite the Grand Duchy of Luxembourg and Belgium,

And being equally anxious to prevent anything from impairing their mutual friendship, and desirous of extending to all disputes that may arise between the two countries the methods of peaceful settlement in accordance with law and justice which conform to the principles of the Covenant of the League of Nations,

Have resolved to conclude a Treaty with this object, and have appointed as their plenipotentiaries, that is to say:

Her Royal Highness the Grand Duchess of Luxembourg:

M. Bech, Minister of State, President of the Government;

Sa Majesté le Roi des Belges:

M. E. Vandervelde, Son Ministre des Affaires Etrangères,

Lesquels, après s'être communiqué leurs pleins pouvoirs trouvés en bonne et due forme, sont convenus des dispositions suivantes:

His Majesty the King of the Belgians:

M. E. Vandervelde, His Minister of Foreign Affairs;

Who, having communicated to each other their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE I. Les Hautes Parties Contractantes s'engagent à régler par voie pacifique, d'après les méthodes prévues par le présent Traité, tous les litiges et conflits, de quelque nature qu'ils soient, qui viendraient à s'élever à l'avenir entre le Grand-Duché de Luxembourg et la Belgique, et qui n'auraient pu être résolus par la procédure diplomatique ordinaire.

Les contestations pour la solution desquelles un mode de règlement pacifique avait été prévu par la Convention Economique, seront réglées conformément aux dispositions du présent Traité, lequel devra recevoir application lors même que ces contestations se rattacheraient à des faits antérieurs à sa conclusion.

En conséquence, les clauses compromissaires figurant dans la Convention d'Union Economique Belge-Luxembourgeoise cesseront d'être applicables.

La procédure qui y est prévue sera toutefois poursuivie dans les instances qui seraient en cours au moment de la signature du présent Traité.

ART. II. S'il s'agit d'une contestation dont l'objet, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux de celle-ci, le différend ne sera soumis à l'une des procédures prévues par le présent Traité qu'après jugement passé en force de chose jugée, rendu dans des délais raisonnables

ARTICLE I. The High Contracting Parties undertake to settle by peaceful means, according to the methods laid down in the present Treaty, all disputes and conflicts, of whatever nature they may be, that may arise in the future between the Grand Duchy of Luxembourg and Belgium, and that it may have proved impossible to settle by the ordinary diplomatic procedure.

Disputes for the settlement of which a pacific method was laid down in the Economic Convention shall be settled in accordance with the provisions of the present Treaty, which shall be applied even when the disputes relate to events prior to its conclusion.

In consequence, the arbitration clauses which appear in the Convention of Economic Union between Belgium and Luxembourg shall cease to be applicable.

The procedure therein laid down shall, however, be carried out in cases which may be pending at the time of the signature of the present Treaty.

ART. II. If the subject of a dispute is one which, according to the municipal law of one of the Parties, falls under the jurisdiction of the national courts of that Party, the dispute shall not be submitted to any of the procedures provided for in the present Treaty until a judgment with final effect has been delivered within a reasonable time by



par l'autorité judiciaire nationale compétente.

ART. III. Avant toute procédure devant les arbitres ou la Cour Permanente de Justice Internationale, le différend sera, à la demande de l'une des Parties, soumis à fin de conciliation à une Commission Internationale Permanente, dite Commission Permanente de Conciliation, constituée conformément au présent Traité.

ART. IV. La Commission permanente de Conciliation prévue à l'article III sera composée de trois membres, qui seront désignés comme il suit, savoir: les Hautes Parties Contractantes nommeront chacune un Commissaire choisi parmi leurs nationaux respectifs.

Le troisième commissaire choisi d'un commun accord parmi les ressortissants d'une tierce Puissance présidera la Commission.

Les Commissaires sont nommés pour cinq ans; leur mandat est renouvelable. Ils resteront en fonctions jusqu'à leur remplacement, et dans tous les cas jusqu'à l'achèvement de leurs travaux en cours au moment de l'expiration de leur mandat.

Il sera pourvu dans le plus bref délai, aux vacances qui viendraient à se produire par suite de décès, de démission ou de quelque autre empêchement en suivant le mode fixé pour les nominations.

ART. V. La Commission permanente de conciliation sera constituée dans les trois mois qui suivront l'entrée en vigueur de la présente convention.

Si la nomination du troisième Commissaire à désigner en commun n'intervenait pas dans ce délai ou,

the competent national judicial authority.

ART. III. Prior to any proceedings before arbitrators or before the Permanent Court of International Justice, the dispute shall, at the request of one of the Parties, be submitted, with a view to amicable settlement, to a Permanent International Commission styled the Permanent Conciliation Commission, constituted as provided in the present Treaty.

ART. IV. The Permanent Conciliation Commission provided for in Article III shall be composed of three members, who shall be appointed as follows, that is to say: each of the High Contracting Parties shall appoint a Commissioner chosen from among its nationals.

The third Commissioner shall be selected by the Parties jointly from among the nationals of a third Power, and shall be President of the Commission.

The Commissioners shall be appointed for five years; their appointment shall be renewable. They shall remain in office until their places have been filled, and, in any case, until any proceedings in progress at the expiration of their term have been completed.

Any vacancies that may arise through death, resignation, or any other cause through which a Commissioner is unable to act, shall be filled as quickly as possible by the method followed in making appointments.

ART. V. The Permanent Conciliation Commission shall be set up within three months from the entry into force of the present Convention.

Should the third Commissioner to be appointed jointly not be appointed within that period or, in the

en cas de remplacement, dans les trois mois à compter de la vacance du siège, le Président de la Confédération Suisse sera, à défaut d'autre entente, prié de procéder aux désignations nécessaires.

ART. VI. La Commission permanente de Conciliation sera saisie par voie de requête adressée au Président par les deux Parties agissant d'un commun accord, ou, à défaut, par l'une ou l'autre des Parties.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à la Partie adverse.

ART. VII. Dans un délai de quinze jours à partir de la date où la Commission Permanente de Conciliation aura été saisie de la contestation, chacune des Parties pourra, pour l'examen de cette contestation, remplacer son Commissaire par une personne possédant une compétence spéciale dans la matière.

La Partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie; celle-ci aura, dans ce cas, la faculté d'agir de même dans un délai de quinze jours à partir de la date où la notification lui sera parvenue.

ART. VIII. La Commission permanente de Conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de

case of a vacancy, within three months from the time when the seat fell vacant, the President of the Swiss Confederation shall, unless it is agreed otherwise, be asked to make the necessary selections.

ART. VI. The Permanent Conciliation Commission shall be informed by means of a request addressed to the President by the two Parties acting in concert, or, if this is impossible, by either of them.

The request shall contain a brief statement of the subject of the dispute, followed by an invitation to the Commission to take all steps calculated to lead to an amicable settlement.

If the request is made by only one of the Parties, that Party shall notify the other Party thereof without delay.

ART. VII. Within the fortnight following the date on which the dispute has been submitted to the Permanent Conciliation Commission, either of the Parties may, for the examination of that case, replace its Commissioner by a person possessing special qualifications in the matter.

The Party availing itself of this right shall immediately notify the other Party; in this case, the latter shall have the option of taking like action within a fortnight after receiving the notification.

ART. VIII. The task of the Permanent Conciliation Commission shall be to elucidate the questions in dispute, to collect with that object all useful information by inquiry or otherwise, and to endeavor to bring the Parties to an agreement. It may, after examining the case, inform the Parties of

l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

A la fin de ses travaux, la Commission dressera un procès-verbal constatant, suivant le cas, soit que les Parties se sont arrangées et s'il y a lieu les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la Commission devront, à moins que les Parties en conviennent différemment, être terminés dans le délai de six mois à compter du jour où la Commission aura été saisie du litige.

ART. IX. A moins de stipulation spéciale contraire, la Commission Permanente de Conciliation réglera elle-même sa procédure qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la Commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du Titre III (les Commissions Internationales d'Enquête) de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. X. La Commission Permanente de Conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son Président.

ART. XI. Les travaux de la Commission Permanente de Conciliation ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties.

ART. XII. Les Parties seront représentées auprès de la Commission Permanente de Conciliation par des agents ayant mission de servir d'intermédiaire entre elles et la Commission. Elles pourront, en

the terms of settlement which seem to it suitable, and lay down a period within which they are to reach their decision.

At the close of its proceedings, the Commission shall draw up a report stating, as the case may be, either that the Parties have arrived at a settlement, and, if necessary, the terms of such settlement, or that it has proved impossible to effect a settlement.

Unless the Parties agree otherwise, the proceedings of the Commission shall be completed within six months from the day on which the dispute was laid before the Commission.

ART. IX. Unless any special stipulation is made to the contrary, the Permanent Conciliation Commission shall decide upon its own procedure, which must in all cases allow of both Parties being heard. In regard to inquiries, the Commission shall, unless it unanimously decides otherwise, adhere to the provisions of Chapter III (International Commissions of Inquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. X. Unless the Parties agree otherwise, the Permanent Conciliation Commission shall meet at the place selected by its President.

ART. XI. The proceedings of the Permanent Conciliation Commission shall not take place in public unless the Commission, with the consent of the Parties, so decides.

ART. XII. The Parties shall be represented before the Permanent Conciliation Commission by agents whose duty it shall be to act as intermediaries between them and the Commission. They may, in addi-

outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraîtrait utile.

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement.

ART. XIII. Sauf disposition contraire du présent Traité, les décisions de la Commission Permanente de Conciliation seront prises à la majorité des voix.

ART. XIV. Les Hautes Parties Contractantes s'engagent à faciliter les travaux de la Commission Permanente de Conciliation et, en particulier, à lui fournir dans la plus large mesure possible tous documents et informations utiles, ainsi qu'à user des moyens dont elles disposent pour lui permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

ART. XV. Pendant la durée des travaux de la Commission Permanente de Conciliation, chacun des Commissaires recevra une indemnité dont le montant sera arrêté, d'un commun accord, entre les Hautes Parties Contractantes qui en supporteront chacune une part égale. Les frais auxquels donnerait lieu le fonctionnement de la Commission seront également partagés par moitié.

ART. XVI. Tous les litiges ayant pour objet un droit de quelque nature qu'il soit, allégué par l'une des Parties et contesté par l'autre, et notamment, les différends appar-

tion, obtain the services of counsel and experts appointed by them for that purpose, and request that any persons whose testimony may seem to them of value be heard by the Commission.

The Commission for its part shall be entitled to ask for oral explanations from the agents, counsel, and experts of the two Parties, and from any persons whom it may think fit to summon with the consent of their Governments.

ART. XIII. Except as otherwise provided in the present Treaty, the decisions of the Permanent Conciliation Commission shall be taken by a majority vote.

ART. XIV. The High Contracting Parties undertake to facilitate the labors of the Permanent Conciliation Commission, and, in particular, to supply it to the greatest possible extent with all relevant documents and information, and to use the means at their disposal to enable it to proceed in their territories and in accordance with their laws to summon and hear witnesses and experts, and to visit the localities in question.

ART. XV. During the proceedings of the Permanent Conciliation Commission, each of the Commissioners shall receive an allowance to be fixed by agreement between the High Contracting Parties and paid by them in equal shares. The expenses incurred in connection with the work of the Commission shall likewise be shared equally.

ART. XVI. All disputes relating to a right of whatever nature which is alleged by one of the Parties and contested by the other, and in particular disputes falling into one of

tenant à l'une des catégories indiquées à l'article 13 du Pacte de la Société des Nations, qui n'auraient pu être réglés dans un délai raisonnable par la procédure diplomatique ordinaire ou par la procédure de conciliation, seront soumis pour jugement à la Cour Permanente de Justice internationale, à moins que les Parties ne soient d'accord pour recourir à la procédure arbitrale visée aux articles 17, 18, 19 et 20 du présent traité.

Les Parties s'efforceront de se mettre d'accord sur les termes d'un compromis. A défaut d'accord, l'une et l'autre d'entre elles auront la faculté de saisir la Cour par voie de requête unilatérale.

ART. XVII. Tous les litiges autres que ceux visés à l'article 16, qui viendraient à s'élever entre les Parties Contractantes et ne pourraient être résolus dans un délai raisonnable par la procédure diplomatique ordinaire ou par la procédure de conciliation seront soumis pour décision à un tribunal arbitral à la demande d'une seule des Parties à défaut de compromis.

ART. XVIII. Au cas où il y aurait contestation sur la nature du différend, ce point préjudiciel sera, à défaut d'accord sur une autre procédure, soumis à la Cour Permanente de Justice Internationale dont l'arrêt, obtenu par la procédure sommaire, sera définitif.

ART. XIX. Le tribunal arbitral, prévu à l'art. 17, sera constitué pour chaque cas particulier. Il sera composé de cinq membres. Pour sa constitution il sera procédé de la manière suivante:

the classes defined in Article 13 of the Covenant of the League of Nations, which it may not have proved possible to settle within a reasonable time by the ordinary diplomatic procedure or by the procedure of conciliation, shall be submitted for judgment to the Permanent Court of International Justice, unless the Parties agree to resort to the procedure of arbitration contemplated in Articles 17, 18, 19, and 20 of the present Treaty.

The Parties shall endeavor to reach unanimity on the terms of an arbitration agreement. In the contrary event, either of them shall be entitled to lay the matter before the Court by a unilateral application.

ART. XVII. All disputes other than those contemplated in Article 16 which may arise between the Contracting Parties and which it may not be possible to settle within a reasonable time by the ordinary diplomatic procedure or by the procedure of conciliation, shall be referred for decision to an arbitral tribunal on the application of either of the Parties, if no arbitration agreement can be arrived at.

ART. XVIII. Should there be any difference of opinion as to the nature of the dispute, this preliminary point shall, unless any other procedure is agreed upon, be referred to the Permanent Court of International Justice, whose decision shall be arrived at by summary procedure and shall be final.

ART. XIX. The arbitral tribunal provided for in Article 17 shall be constituted separately for each case. It shall consist of five members. The method of its constitution shall be as follows:

La demande visant la constitution du tribunal portera désignation d'un des arbitres; un deuxième arbitre sera désigné par l'autre Partie Contractante; les trois autres arbitres, dont le Président, seront nommés par l'accord des Parties.

A défaut de composition du tribunal arbitral dans le mois de la demande, il sera pourvu aux nominations restant à faire par le Président de la Confédération Suisse, à la requête d'une seule des Parties.

ART. XX. Lorsqu'un tribunal arbitral aura été constitué ainsi qu'il est prévu à l'article précédent, les Parties Contractantes s'efforceront de conclure un compromis spécial concernant l'objet du litige, ainsi que les modalités de la procédure.

A défaut d'accord entre les Parties, l'une et l'autre d'entre elles auront la faculté, après un préavis d'un mois, de porter directement, par voie de requête, la contestation devant le tribunal arbitral.

ART. XXI. Dans tous les cas et notamment si la question au sujet de laquelle les Parties sont divisées résulte d'actes déjà effectués ou sur le point de l'être, la Commission de Conciliation ou, si celle-ci ne s'en trouvait plus saisie, le Tribunal arbitral ou la Cour Permanente de Justice Internationale statuant conformément à l'article 41 de son statut, indiqueront s'il y a lieu et dans le plus bref délai possible, quelles mesures provisoires doivent être prises; chacune des Hautes Parties Contractantes s'engage à s'y conformer, à s'abstenir de tout ce qui serait susceptible d'avoir une répercussion préjudiciable à l'exécution de la décision à intervenir ou aux ar-

The request for the constitution of the tribunal shall be accompanied by the nomination of one of the arbitrators; a second arbitrator shall be nominated by the other Contracting Party; the other three arbitrators, including the President, shall be nominated by the Parties jointly.

Should the arbitral tribunal not have been constituted within one month of the request, the appointments still to be made shall be made by the President of the Swiss Confederation at the request of either of the Parties.

ART. XX. When an arbitral tribunal has been constituted as provided in the preceding article, the Contracting Parties shall endeavor to conclude a special agreement concerning the subject of the dispute and the details of the procedure.

If no agreement can be reached between the Parties, either of them shall be entitled, upon giving one month's notice, to submit the dispute directly to the arbitral tribunal by making application.

ART. XXI. In all cases, and especially if the question upon which the Parties are at issue arises out of acts already performed or about to be performed, the Conciliation Commission, or, if the matter is no longer before that Commission, the arbitral tribunal or the Permanent Court of International Justice, acting in accordance with Article 41 of its Statute, shall, if necessary, indicate, as speedily as possible, what provisional steps are to be taken. Each of the High Contracting Parties undertakes to take the said steps, to refrain from taking any measure which might prejudicially influence the execution of the future decision or the arrangements to be proposed by

rangements à proposer par la Commission de Conciliation et en général à ne procéder à aucun acte, de quelque nature qu'il soit, susceptible d'aggraver ou d'étendre le différend.

ART. XXII. Le présent Traité restera applicable entre les Hautes Parties Contractantes encore que d'autres Puissances aient également intérêt dans le différend.

ART. XXIII. Le présent Traité sera communiqué pour enregistrement à la Société des Nations, conformément à l'article 18 du Pacte.

ART. XXIV. Le présent Traité sera ratifié.

Il entrera en vigueur dès l'échange des ratifications. Il aura une durée de 10 ans à compter de la date de son entrée en vigueur. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il sera considéré comme renouvelé pour une période de cinq années et ainsi de suite.

Si lors de l'expiration du présent Traité, une procédure quelconque poursuivie en vertu de ce traité se trouvait pendante devant la Commission permanente de conciliation, devant un tribunal d'arbitrage, ou devant la Cour Permanente de Justice Internationale, le Traité devrait continuer à recevoir exécution en ce qui concerne le différend, jusqu'au règlement final de celui-ci.

En foi de quoi, les Plénipotentiaires susnommés ont signé le présent Traité.

Fait à Bruxelles en double exemplaire, le 17 octobre 1927.

Jos. Bech  
E. Vandervelde

the Conciliation Commission, and in general to take no action of any kind which might have the effect of aggravating or extending the dispute.

ART. XXII. The present Treaty shall still be applicable as between the High Contracting Parties even if other Powers are also concerned in the dispute.

ART. XXIII. The present Treaty shall be communicated to the League of Nations for registration in accordance with Article 18 of the Covenant.

ART. XXIV. The present Treaty shall be ratified.

It shall come into force upon the exchange of ratifications. It shall remain operative for ten years from its entry into force. Unless denounced six months before the expiration of this period, it shall be deemed to be renewed for a term of five years, and similarly thereafter.

If, at the expiration of the present Treaty, proceedings of any kind in virtue of this Treaty should be pending before the Permanent Conciliation Commission, before an arbitral tribunal, or before the Permanent Court of International Justice, the Treaty shall continue to be carried out in respect of the dispute until the latter is finally settled.

In witness whereof the above-named Plenipotentiaries have signed the present Treaty.

Done in duplicate at Brussels, October 17, 1927.

Jos. Bech  
E. Vandervelde

PERMANENT COMMISSION OF CONCILIATION

No information available.

## No. 90

FRANCE-LUXEMBURG: TREATY OF CONCILIATION,  
ARBITRATION, AND COMPULSORY  
ADJUDICATION

Signed at Paris October 17, 1927; ratifications exchanged September 8, 1930.

Original text communicated by the Minister of State, President of the Government of Luxembourg; English translation by a translator of the Secretariat of the League of Nations.

*(Translation)*

Le Président de la République Française et Son Altesse Royale la Grande-Duchesse de Luxembourg,

S'inspirant des relations de bon voisinage et d'amitié qui unissent si heureusement la France et le Grand-Duché de Luxembourg,

Egalement soucieux d'écarter tout ce qui pourrait y porter atteinte et convaincue que les contestations qui viendraient à surgir entre les deux pays ne sauraient, à défaut d'arrangement amiable, être réglées que pacifiquement par la voie du droit et de la Justice conformément aux principes consacrés par le Pacte de la Société des Nations,

Ont résolu de conclure un Traité à cet effet et ont nommé pour leurs plénipotentiaires respectifs, savoir:

Le Président de la République Française:

M. Aristide Briand, Ministre des Affaires Etrangères,

S. A. R. la Grande-Duchesse de Luxembourg:

M. Joseph Bech, Ministre d'Etat, Président du Gouvernement,

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Les Hautes Parties Contractantes s'engagent récipro-

The President of the French Republic and Her Royal Highness the Grand Duchess of Luxembourg,

Having regard to the neighborly and friendly relations that so happily unite France and the Grand Duchy of Luxembourg,

And being equally anxious to prevent anything from disturbing those relations, and convinced that any disputes that may arise between the two countries and that cannot be settled amicably must not be dealt with otherwise than peaceably, by the method of law and justice, in accordance with the principles established by the Covenant of the League of Nations.

Have resolved to conclude a Treaty with this object, and have appointed as their respective plenipotentiaries, that is to say:

The President of the French Republic:

M. Aristide Briand, Minister of Foreign Affairs;

H. R. H. the Grand Duchess of Luxembourg:

M. Joseph Bech, Minister of State, President of the Government,

Who, having communicated to each other their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1. The High Contracting Parties reciprocally undertake



quement à régler, dans tous les cas, par voie pacifique et d'après les méthodes prévues par le présent Traité, tous les litiges et conflits de quelque nature qu'ils soient, qui viendraient à s'élever entre la France et le Grand-Duché de Luxembourg et qui n'auraient pu être résolus par les procédés diplomatiques ordinaires.

ART. 2. Toutes contestations entre les Hautes Parties Contractantes de quelque origine qu'elles soient, et qui n'auraient pu être réglées à l'amiable par les procédés diplomatiques ordinaires seront soumises pour jugement, soit au tribunal arbitral, soit à la Cour Permanente de justice internationale, ainsi qu'il est prévu ciaprès.

Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres conventions en vigueur entre les Hautes Parties Contractantes seront réglées conformément aux dispositions de ces conventions.

ART. 3. Avant toute procédure arbitrale ou avant toute procédure devant la Cour permanente de justice internationale, la contestation sera soumise à fin de conciliation à une Commission internationale permanente, dite "Commission permanente de conciliation" constituée conformément au présent Traité.

ART. 4. S'il s'agit d'une contestation dont l'objet, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux de celle-ci, le différend ne sera soumis à la procédure prévue par le présent Traité qu'après jugement passé en force de chose jugée et rendu dans des délais raisonnables par l'autorité judiciaire nationale compétente.

in every case to settle by peaceful means, and by the methods laid down in the present Treaty, all disputes and conflicts, of whatever nature they may be, that may arise between France and the Grand Duchy of Luxemburg, and that it may have proved impossible to settle by the ordinary diplomatic procedure.

ART. 2. All disputes between the High Contracting Parties, whatever may be their origin, of which it has proved impossible to reach a friendly settlement by the ordinary diplomatic procedure, shall be submitted for judgment either to the arbitral tribunal or to the Permanent Court of International Justice, as hereinafter provided.

Disputes for the settlement of which a special procedure is laid down by other conventions in force between the High Contracting Parties shall be settled in accordance with the provisions of such conventions.

ART. 3. Prior to any arbitration proceedings or any proceedings before the Permanent Court of International Justice, the dispute shall be submitted, with a view to amicable settlement, to a permanent international commission styled the Permanent Conciliation Commission, constituted as provided in the present Treaty.

ART. 4. If the subject of the dispute is one which, according to the municipal law of one of the Parties, falls under the jurisdiction of the national courts of that Party, the dispute shall not be submitted to the procedure provided for in the present Treaty until a judgment with final effect has been delivered within a reasonable time by the competent national judicial authority.

**ART. 5.** La Commission permanente de conciliation prévue à l'article 3 sera composée de cinq membres, qui seront désignés comme il suit, savoir: les Hautes Parties Contractantes nommeront chacune un Commissaire choisi parmi leurs nationaux respectifs et désigneront, d'un commun accord, les trois autres Commissaires parmi les ressortissants de tierces Puissances; ces trois Commissaires devront être de nationalité différente et, parmi eux, les Hautes Parties Contractantes désigneront le Président de la Commission.

Les Commissaires sont nommés pour trois ans; leur mandat est renouvelable. Ils resteront en fonction jusqu'à leur remplacement, et, dans tous les cas, jusqu'à l'achèvement de leurs travaux en cours au moment de l'expiration de leur mandat.

Il sera pourvu dans le plus bref délai aux vacances qui viendraient à se produire par suite de décès, de démission ou de quelque autre empêchement, en suivant le mode fixé pour les nominations.

**ART. 6.** La Commission permanente de conciliation sera constituée dans les trois mois qui suivront l'entrée en vigueur de la présente Convention.

Si la nomination des Commissaires à désigner en commun n'intervenait pas dans le délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, le Président de la Confédération Suisse sera, à défaut d'autre entente, prié de procéder aux désignations nécessaires.

**ART. 7.** La Commission permanente de conciliation sera saisie par voie de requête adressée au Président par les deux Parties agissant

**ART. 5.** The Permanent Conciliation Commission provided for in Article 3 shall be composed of five members, who shall be appointed as follows, that is to say: each of the High Contracting Parties shall appoint a Commissioner chosen from among its nationals, and the two Parties jointly shall select the other three Commissioners from among the nationals of third Powers; these three Commissioners must be of different nationalities, and one of them shall be appointed by the High Contracting Parties to be President of the Commission.

The Commissioners shall be appointed for three years, and their appointment shall be renewable. They shall remain in office until their places have been filled, and, in any case, until any proceedings in progress at the expiration of their term have been completed.

Any vacancies that may arise through death, resignation, or any other cause through which a Commissioner is unable to act, shall be filled as quickly as possible by the method followed in making appointments.

**ART. 6.** The Permanent Conciliation Commission shall be set up within three months from the entry into force of the present Convention.

Should the members to be appointed jointly not be appointed within that period, or, in the case of a vacancy, within three months from the time when the seat fell vacant, the President of the Swiss Confederation shall, unless it is agreed otherwise, be asked to make the necessary selections.

**ART. 7.** The Permanent Conciliation Commission shall be informed by means of a request addressed to the President by the two Parties

d'un commun accord ou, à défaut, par l'une ou l'autre des Parties.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à la Partie adverse.

ART. 8. Dans un délai de quinze jours à partir de la date où la Commission permanente de conciliation aura été saisie de la contestation chacune des Parties pourra, pour l'examen de cette contestation, remplacer son Commissaire par une personne possédant une compétence spéciale dans la matière.

La Partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie; celle-ci aura, dans ce cas, la faculté d'agir de même dans un délai de quinze jours à partir de la date où la notification lui sera parvenue.

ART. 9. La Commission permanente de conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

À la fin de ses travaux, la Commission dresse un procès-verbal constatant, suivant le cas, soit que les Parties se sont arrangées, et s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

acting in concert, or, if this is impossible, by either of them.

The request shall contain a brief statement of the subject of the dispute, followed by an invitation to the Commission to take all steps calculated to lead to an amicable settlement.

If the request is made by only one of the Parties, that Party shall notify the other Party thereof without delay.

ART. 8. Within the fortnight following the date on which the dispute has been submitted to the Permanent Conciliation Commission, either of the Parties may, for the examination of that case, replace its Commissioner by a person possessing special qualifications in the matter.

The Party availing itself of this right shall immediately notify the other Party; in this case, the latter shall have the option of taking like action within a fortnight after receiving the notification.

ART. 9. The task of the Permanent Conciliation Commission shall be to elucidate the questions in dispute, to collect with that object all useful information by inquiry or otherwise, and to endeavor to bring the Parties to an agreement. It may, after examining the case, inform the Parties of the terms of settlement which seem to it suitable, and lay down a period within which they are to reach their decision.

At the close of its proceedings the Commission shall draw up a report stating, as the case may be, either that the Parties have arrived at a settlement, and, if necessary, the terms of such settlement, or that it has proved impossible to effect a settlement.

Les travaux de la Commission devront, à moins que les Parties ne conviennent différemment, être terminés dans le délai de six mois à compter du jour où la Commission aura été saisie du litige.

ART. 10. A moins de stipulation spéciale contraire, la Commission permanente de conciliation réglera elle-même sa procédure qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la Commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du Titre III. (Des Commissions internationales d'enquête) de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 11. La Commission permanente de conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son Président.

ART. 12. Les travaux de la Commission permanente de conciliation ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties.

ART. 13. Les parties seront représentées auprès de la Commission permanente de conciliation par des agents ayant mission de servir d'intermédiaire entre elles et la Commission. Elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraît utile.

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement.

Unless the Parties agree otherwise, the proceedings of the Commission shall be completed within six months from the day on which the dispute was laid before the Commission.

ART. 10. Unless any special stipulation is made to the contrary, the Permanent Conciliation Commission shall decide upon its own procedure, which must in all cases allow of both Parties being heard. In regard to inquiries, the Commission shall, unless it unanimously decides otherwise, adhere to the provisions of Chapter III (International Commissions of Inquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 11. Unless the Parties agree otherwise, the Permanent Conciliation Commission shall meet at the place selected by its President.

ART. 12. The proceedings of the Permanent Conciliation Commission shall not take place in public unless the Commission, with the consent of the Parties, so decides.

ART. 13. The Parties shall be represented before the Permanent Conciliation Commission by agents whose duty it shall be to act as intermediaries between them and the Commission. They may, in addition, obtain the assistance of counsel and experts appointed by them for that purpose, and request that any persons whose testimony may seem to them of value be heard by the Commission.

The Commission for its part shall be entitled to ask for oral explanations from the agents, counsel, and experts of the two Parties, and from any persons whom it may think fit to summon with the consent of their Governments.

ART. 14. Sauf disposition contraire du présent Traité, les décisions de la Commission permanente de conciliation seront prises à la majorité des voix.

ART. 15. Les Hautes Parties Contractantes s'engagent à faciliter les travaux de la Commission permanente de conciliation et, en particulier, à lui fournir dans la plus large mesure possible tous documents et informations utiles, ainsi qu'à user des moyens dont elles disposent pour leur permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition des témoins ou d'experts et à des transports sur les lieux.

ART. 16. Pendant la durée des travaux de la Commission permanente de conciliation, chacun des Commissaires recevra une indemnité dont le montant sera arrêté, d'un commun accord, entre les Hautes Parties Contractantes qui en supporteront chacune une part égale. Les frais auxquels donnerait lieu le fonctionnement de la Commission seront également partagés par moitié.

ART. 17. A défaut de conciliation devant la Commission permanente de conciliation, la contestation sera soumise d'un commun accord par voie de compromis, soit à la Cour permanente de Justice Internationale, dans les conditions et suivant la procédure prévues par son statut, soit à un Tribunal arbitral, dans les conditions et suivant la procédure prévues par la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

A défaut d'accord entre les Parties sur le compromis et après un préavis d'un mois, l'une et l'autre

ART. 14. Except as otherwise provided in the present Treaty, the decisions of the Permanent Conciliation Commission shall be taken by a majority vote.

ART. 15. The High Contracting Parties undertake to facilitate the labours of the Permanent Conciliation Commission, and, in particular, to supply it to the greatest possible extent with all relevant documents and information, and to use the means at their disposal to enable it to proceed in their territories and in accordance with their laws to summon and hear witnesses and experts, and to visit the localities in question.

ART. 16. During the proceedings of the Permanent Conciliation Commission, each of the Commissioners shall receive an allowance to be fixed by agreement between the High Contracting Parties and paid by them in equal shares. The expenses incurred in connection with the work of the Commission shall likewise be shared equally.

ART. 17. If no amicable settlement can be reached before the Permanent Conciliation Commission, the dispute shall be submitted by common consent, by means of an agreement, either to the Permanent Court of International Justice, under the conditions and according to the procedure laid down in its Statute, or to an arbitral tribunal, under the conditions and according to the procedure laid down in the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

Should the Parties fail to reach unanimity as to the agreement, either of them shall be entitled, on

d'entre elles aura la faculté de porter directement par voie de requête la contestation devant la Cour Permanente de justice internationale.

#### DISPOSITION GÉNÉRALE

ART. 18. Dans tous les cas et notamment si la question au sujet de laquelle les Parties sont divisées résulte d'actes déjà effectués ou sur le point de l'être, la Commission de conciliation ou, si celle-ci ne s'en trouvait plus saisie, le Tribunal arbitral ou la Cour permanente de Justice internationale statuant conformément à l'article 41 de son statut, indiqueront, s'il y a lieu et dans le plus bref délai possible, quelles mesures provisoires doivent être prises. Chacune des Hautes Parties Contractantes s'engage à s'y conformer, à s'abstenir de toute mesure susceptible d'avoir une répercussion préjudiciable à l'exécution de la décision ou aux arrangements proposés par la Commission de conciliation, et en général à ne procéder à aucun acte, de quelque nature qu'il soit, susceptible d'aggraver ou d'étendre le différend.

ART. 19. Le présent Traité reste applicable entre les Hautes Parties Contractantes encore que d'autres Puissances aient également intérêt dans le différend.

ART. 20. Le présent Traité sera communiqué pour enregistrement à la Société des Nations conformément à l'article 18 du Pacte.

ART. 21. Le présent Traité sera ratifié. Les ratifications en seront échangées à Paris.

Il entrera en vigueur dès l'échange des ratifications. Il aura une durée de 10 ans à compter de son entrée en vigueur. S'il n'est pas dénoncé six mois avant l'expira-

giving one month's notice, to lay the case directly before the Permanent Court of International Justice by means of an application.

#### GENERAL PROVISIONS

ART. 18. In all cases, and especially if the question upon which the Parties are at issue arises out of acts already performed or about to be performed, the Conciliation Commission, or, if the matter is no longer before that Commission, the arbitral tribunal or the Permanent Court of International Justice acting in accordance with Article 41 of its Statute, shall, if necessary, indicate, as speedily as possible, what provisional steps are to be taken. Each of the High Contracting Parties undertakes to take the said steps, to refrain from taking any measure which might prejudicially influence the execution of the decision or of the arrangements proposed by the Conciliation Commission, and in general to take no action of any kind which might have the effect of aggravating or extending the dispute.

ART. 19. The present Treaty shall still be applicable as between the High Contracting Parties even if other Powers are also concerned in the dispute.

ART. 20. The present Treaty shall be communicated to the League of Nations for registration in accordance with Article 18 of the Covenant.

ART. 21. The present Treaty shall be ratified, and the ratifications shall be exchanged at Paris.

It shall come into force upon the exchange of ratifications. It shall remain operative for ten years from its entry into force. Unless denounced six months before the ex-

tion de ce délai, il sera considéré comme renouvelé pour une période de cinq années et ainsi de suite.

Si, lors de l'expiration du présent Traité, une procédure quelconque en vertu de ce Traité se trouvait pendante devant la Commission permanente de conciliation, devant un Tribunal d'arbitrage ou devant la Cour permanente de Justice Internationale, cette procédure serait poursuivie jusqu'à son achèvement.

En foi de quoi, les Plénipotentiaires susnommés ont signé le présent Traité.

Fait à Paris en double exemplaire le 17 octobre 1927.

A. Briand  
Jos. Bech

piration of this period, it shall be deemed to be renewed for a term of five years, and similarly thereafter.

If, at the expiration of the present Treaty, proceedings of any kind in virtue of this Treaty should be pending before the Permanent Conciliation Commission, before an arbitral tribunal, or before the Permanent Court of International Justice, such proceedings shall be continued until their completion.

In witness whereof the above-named Plenipotentiaries have signed the present Treaty.

Done in duplicate at Paris, October 17, 1927.

A. Briand  
Jos. Bech

#### PERMANENT COMMISSION OF CONCILIATION

No information available.

### No. 91

#### FRANCE-KINGDOM OF THE SERBS, CROATS, AND SLOVENES: TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Paris November 11, 1927; ratifications exchanged December 2, 1927.

Original text and English translation from League of Nations, *Treaty Series*, LXVIII, 382-391

(Translation)

Les soussignés, dûment autorisés, chargés par leurs gouvernements respectifs de fixer les modalités suivant lesquelles il sera, ainsi qu'il est prévu dans l'article 2 du Traité conclu en date de ce jour, entre la France et le Royaume des Serbes, Croates et Slovènes, procédé au règlement pacifique de toutes les questions qui ne pourraient être réglées à l'amiable entre les deux pays,

Ont convenu des dispositions suivantes:

The Undersigned, duly authorised, charged by their respective Governments to determine the methods by which, as provided in Article 2 of the Treaty concluded this day between France and the Kingdom of the Serbs, Croats and Slovenes, a peaceful solution shall be attained of all questions which cannot be settled amicably between the two countries,

Have agreed as follows:

PARTIE I<sup>re</sup>

ARTICLE 1<sup>er</sup>. Toutes contestations entre les Hautes Parties contractantes, de quelque nature qu'elles soient, au sujet desquelles les Parties se contesteraient réciproquement un droit, et qui n'auraient pu être réglées à l'amiable par les procédés diplomatiques ordinaires, seront soumises pour jugement soit à un tribunal arbitral, soit à la Cour permanente de Justice internationale, ainsi qu'il est prévu ci-après. Il est entendu que les contestations ci-dessus visées comprennent celles que mentionne l'article 13 du Pacte de la Société des Nations.

Cette disposition ne s'applique pas aux contestations ayant leur origine dans des faits antérieurs à la présente convention et qui appartiennent au passé.

Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres conventions en vigueur entre les Hautes Parties contractantes, seront réglées conformément aux dispositions de ces conventions.

ART. 2. Avant toute procédure arbitrale ou avant toute procédure devant la Cour permanente de Justice internationale, la contestation pourra être, d'un commun accord entre les Parties, soumise à fin de conciliation à une commission internationale permanente, dite *Commission permanente de conciliation*, constituée conformément à la présente convention.

ART. 3. S'il s'agit d'une contestation dont l'objet, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux de celles-ci, le différend ne sera soumis à la procédure prévue par la présente

## PART I

ARTICLE 1. All disputes of every kind between the High Contracting Parties with regard to which the Parties are in conflict as to their respective rights, and which it may not have been possible to settle amicably by the normal methods of diplomacy, shall be submitted for decision to an arbitral tribunal or to the Permanent Court of International Justice, as laid down hereinafter. It is agreed that the disputes referred to above include those mentioned in Article 13 of the Covenant of the League of Nations.

This provision does not apply to disputes arising out of events prior to the present Convention and belonging to the past.

Disputes for the settlement of which a special procedure is laid down in other conventions in force between the High Contracting Parties shall be settled in conformity with the provisions of those conventions.

ART. 2. Before any resort is made to arbitral procedure or to procedure before the Permanent Court of International Justice, the dispute may, by agreement between the Parties, be submitted, with a view to amicable settlement, to a permanent international commission, styled the *Permanent Conciliation Commission*, constituted in accordance with the present Convention.

ART. 3. In the case of a dispute the occasion of which, according to the municipal law of one of the Parties, falls within the competence of the national courts of such Party, the matter in dispute shall not be submitted to the procedure



convention qu'après jugement passé en force de chose jugée et rendu dans des délais raisonnables, par l'autorité judiciaire nationale compétente.

ART. 4. La Commission permanente de conciliation prévue à l'article 2 sera composée de cinq membres, qui seront désignés comme suit, savoir: les Hautes Parties contractantes nommeront chacune un commissaire choisi parmi leurs nationaux respectifs et désigneront, d'un commun accord, les trois autres commissaires parmi les ressortissants de tierces Puissances; ces trois commissaires devront être de nationalités différentes et, parmi eux, les Hautes Parties contractantes désigneront le président de la commission.

Les commissaires sont nommés pour trois ans; leur mandat est renouvelable. Ils resteront en fonction jusqu'à leur remplacement, et, dans tous les cas, jusqu'à l'achèvement de leurs travaux en cours au moment de l'expiration de leur mandat.

Il sera pourvu, dans le plus bref délai, aux vacances qui viendraient à se produire, par suite de décès, de démission ou de quelque autre empêchement, en suivant le mode fixé pour les nominations.

ART. 5. La Commission permanente de conciliation sera constituée dans les trois mois qui suivront l'entrée en vigueur de la présente convention.

Si la nomination des commissaires à désigner en commun n'intervenait pas dans le délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, le président de la Confédération suisse sera, à défaut d'autre

laid down in the present Convention until a judgment with final effect has been pronounced, within a reasonable time, by the competent national judicial authority.

ART. 4. The Permanent Conciliation Commission mentioned in Article 2 shall be composed of five members, who shall be appointed as follows, that is to say: the High Contracting Parties shall each nominate a commissioner chosen from among their respective nationals and shall appoint, by common agreement, the three other commissioners from among the nationals of third Powers: these three commissioners must be of different nationalities, and the High Contracting Parties shall appoint the President of the Commission from among them.

The commissioners are appointed for three years, and their mandate is renewable. Their appointment shall continue until their replacement and, in any case, until the termination of the work in hand at the moment of the expiry of their mandate.

Vacancies which may occur as a result of death, resignation or any other cause shall be filled within the shortest possible time in the manner fixed for the nominations.

ART. 5. The Permanent Conciliation Commission shall be constituted within three months from the entry into force of the present Convention.

If the nomination of the commissioners to be appointed by common agreement should not have taken place within the said period, or, in the case of the filling of a vacancy, within three months from the time when the seat falls vacant, the President of the Swiss Con-

entente, prié de procéder aux désignations nécessaires

ART 6 La Commission permanente de conciliation sera saisie par voie de requête adressée au président par les deux Parties agissant d'un commun accord, ou, à défaut, par l'une ou l'autre des Parties

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la commission de procéder à toutes mesures propres à conduire à une conciliation

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à la Partie adverse

ART 7 Dans un délai de quinze jours à partir de la date où l'une des Hautes Parties contractantes aurait porté une contestation devant la Commission permanente de conciliation, chacune des Parties pourra, pour l'examen de cette contestation, remplacer son commissaire par une personne possédant une compétence spéciale dans la matière

La Partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie, celle-ci aura, dans ce cas, la faculté d'agir de même dans un délai de quinze jours à partir de la date où la notification lui sera parvenue

ART 8 La Commission permanente de conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait

federation shall, in the absence of other agreement, be requested to make the necessary appointments.

ART 6 The Permanent Conciliation Commission shall be informed by means of a request addressed to the president by the two Parties acting in agreement or, in the absence of such agreement, by one or other of the Parties

The request, after having given a summary account of the subject of the dispute, shall contain the invitation to the Commission to take all necessary measures with a view to arriving at an amicable settlement

If the request emanates from only one of the Parties, notification thereof shall be made without delay to the other Party

ART 7 Within fifteen days from the date when either of the High Contracting Parties shall have brought a dispute before the Permanent Conciliation Commission, either Party may, for the examination of the particular dispute, replace its commissioner by a person possessing special competence in the matter

The Party making use of this right shall immediately inform the other Party, the latter shall in that case be entitled to take similar action within fifteen days from the date when the notification reaches it

ART 8 The task of the Permanent Conciliation Commission shall be to elucidate questions in dispute to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of settlement

convenable et leur impartir un délai pour se prononcer

A la fin de ses travaux, la commission dressera un procès-verbal constatant, suivant le cas, soit que les Parties se sont arrangées, et s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées

Les travaux de la commission devront, à moins que les Parties en conviennent différemment, être terminés dans le délai de six mois à compter du jour où la commission aura été saisie du litige

ART 9 A moins de stipulation spéciale contraire, la Commission permanente de conciliation réglera elle-même sa procédure qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du titre III (Commission internationale d'enquête) de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux

ART 10 La Commission permanente de conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son président

ART 11 Les travaux de la Commission permanente de conciliation ne sont publiés qu'en vertu d'une décision prise par la commission avec l'assentiment des Parties

ART 12 Les Parties seront représentées auprès de la Commission permanente de conciliation par des agents ayant mission de servir d'intermédiaires entre elles et la commission, elles pourront, en

which seem suitable to it, and lay down a period within which they are to make their decision

At the close of its proceedings the Commission shall draw up a report stating, as the case may be, either that the Parties have come to an agreement and, if need arises, the terms of the agreement, or that it has been impossible to effect a settlement

The proceedings of the Commission must, unless the Parties otherwise agree, be terminated within six months from the day on which the Commission shall have been notified of the dispute

ART 9 Failing any special provision to the contrary, the Permanent Conciliation Commission shall lay down its own procedure, which in any case must provide for both Parties being heard. In regard to enquiries, the Commission unless it decides unanimously to the contrary, shall act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of The Hague Convention of the 18th October 1907, for the Pacific Settlement of International Disputes

ART 10 The Permanent Conciliation Commission shall meet, in the absence of agreement by the Parties to the contrary, at a place selected by its president

ART 11 The proceedings of the Permanent Conciliation Commission shall not be published, except when a decision to that effect has been taken by the Commission with the consent of the Parties

ART 12 The Parties shall be represented before the Permanent Conciliation Commission by agents, whose duty it shall be to act as intermediaries between them and the Commission, they may, moreover,

outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraît utile

La commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties, ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur gouvernement

ART 13 Sauf disposition contraire de la présente convention, les décisions de la Commission permanente de conciliation seront prises à la majorité des voix

ART 14 Les Hautes Parties contractantes s'engagent à faciliter les travaux de la Commission permanente de conciliation et, en particulier, à lui fournir, dans la plus large mesure possible, tous documents et informations utiles, ainsi qu'à user des moyens dont elles disposent pour leur permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux

ART 15 Pendant la durée des travaux de la Commission permanente de conciliation, chacun des commissaires recevra une indemnité dont le montant sera arrêté, d'un commun accord, entre les Hautes Parties contractantes qui en supporteront chacune une part égale. Les frais auxquels donnerait lieu le fonctionnement de la commission, seront également partagés par moitié

ART 16 A défaut de conciliation devant la Commission permanente de conciliation, la contestation sera soumise d'un commun accord, par voie de compromis,

be assisted by counsel and experts appointed by them for that purpose, and request that all persons whose evidence appears to them useful should be heard

The Commission, on its side, shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties, as well as from all persons it may think useful to summon with the consent of their Governments

ART 13 Unless otherwise provided in the present Convention, the decisions of the Permanent Conciliation Commission shall be taken by a majority

ART 14 The High Contracting Parties undertake to facilitate the labours of the Permanent Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to allow it to proceed in their territory and in accordance with their law to the summoning and hearing of witnesses or experts, and to visit the localities in question

ART 15 During the labours of the Permanent Conciliation Commission each commissioner shall receive salary, the amount of which shall be fixed by agreement between the High Contracting Parties, each of which shall contribute an equal share. The expenses occasioned by the work of the Commission shall also be borne equally by the Parties

ART 16 In the event of no amicable agreement being reached before the Permanent Conciliation Commission, the dispute shall be jointly submitted by means of a

soit à la Cour permanente de Justice internationale dans les conditions et suivant la procédure prévues par son Statut, soit à un tribunal arbitral dans les conditions et suivant la procédure prévues par la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux

A défaut d'accord entre les Parties sur le compromis et après un préavis d'un mois, l'une ou l'autre d'entre elles aura la faculté de porter directement par voie de requête la contestation devant la Cour permanente de Justice internationale

## PARTE II

ART 17 Toutes les questions sur lesquelles les gouvernements des deux Hautes Parties contractantes seraient divisés sans pouvoir les résoudre à l'amiable par les procédés diplomatiques ordinaires, dont la solution ne pourrait être recherchée par un jugement, ainsi qu'il est prévu par l'article premier de la présente convention et pour lesquelles une procédure de règlement ne serait pas déjà prévue par un traité en vigueur entre les Parties, seront soumises à la *Commission permanente de conciliation*, qui sera chargée de proposer aux Parties une solution acceptable, et, dans tous les cas, de présenter un rapport

La procédure prévue par les articles 6 à 15 de la présente convention sera appliquée

ART 18 Si, dans le mois qui suivra la clôture des travaux de la Commission permanente de conciliation, les deux Parties ne se sont pas entendues, la question sera, à la requête de l'une ou de l'autre Partie, portée devant le Conseil de la Société des Nations

special agreement either to the Permanent Court of International Justice under the conditions and according to the procedure laid down by its statute or to an arbitral tribunal under the conditions and according to the procedure laid down by the Hague Convention of the 18th October, 1907, for the Pacific Settlement of International Disputes

If the Parties cannot agree on the terms of the special agreement, after a month's notice one or other of them may bring the dispute before the Permanent Court of International Justice by means of an application

## PART II

ART 17 All questions on which the Governments of the High Contracting Parties shall differ without being able to reach an amicable solution by means of the normal methods of diplomacy, and the settlement of which cannot be attained by means of a judicial decision as provided in Article 1 of the present Convention, and for the settlement of which no procedure has been laid down by any treaty in force between the Parties, shall be submitted to the *Permanent Conciliation Commission*, whose duty it shall be to propose to the Parties an acceptable solution and in any case to present a report

The procedure laid down in Articles 6 to 15 of the present Convention shall be applicable

ART 18 If the two Parties have not reached an agreement within a month from the termination of the labours of the Permanent Conciliation Commission the question shall, at the request of either Party, be brought before the Council of the League of Nations

## DISPOSITIONS GÉNÉRALES

ART 19 Dans tous les cas, et notamment si la question au sujet de laquelle les Parties sont divisées, résulte d'actes déjà effectués ou sur le point de l'être, la Commission de conciliation ou, si celle-ci ne s'en trouvait pas saisie, le Tribunal arbitral ou la Cour permanente de Justice internationale statuant conformément à l'article 41 de son Statut, indiqueront dans le plus bref délai possible quelles mesures provisoires doivent être prises. Il appartiendra au Conseil de la Société des Nations, si il est saisi de la question, de pourvoir de même à des mesures provisoires appropriées. Chacune des Hautes Parties contractantes s'engage à s'y conformer, à s'abstenir de toute mesure susceptible d'avoir une répercussion préjudiciable à l'exécution de la décision ou aux arrangements proposés par la Commission de conciliation, et, en général, à ne procéder à aucun acte de quelque nature qu'il soit susceptible d'aggraver ou d'étendre le différend.

ART 20 La présente convention restera applicable entre les Hautes Parties contractantes encore que d'autres Puissances aient également un intérêt dans le différend.

ART 21 La présente convention sera ratifiée. Les ratifications en seront déposées à Genève à la Société des Nations en même temps que les ratifications du Traité conclu en date de ce jour entre la France et le Royaume des Serbes, Croates et Slovènes.

Elle entrera et demeurera en vigueur dans les mêmes conditions que ledit traité.

Fait à Paris, le 11 novembre 1927

A Briand  
Dr V Marinkovitch

## GENERAL PROVISIONS

ART 19 In any case, and particularly if the question on which the Parties differ arises out of acts already committed or on the point of commission, the Conciliation Commission or, if the latter has not been notified thereof, the arbitral tribunal or the Permanent Court of International Justice, acting in accordance with Article 41 of its Statute, shall lay down within the shortest possible time the provisional measures to be adopted. It shall similarly be the duty of the Council of the League of Nations, if the question is brought before it, to ensure that suitable provisional measures are taken. Each of the High Contracting Parties undertakes to accept such measures, to abstain from all measures likely to have a repercussion prejudicial to the execution of the decision or to the arrangements proposed by the Conciliation Commission, and in general to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

ART 20 The present Convention continues applicable as between the High Contracting Parties, even when other Powers are also interested in the dispute.

ART 21 The present Convention shall be ratified. Ratifications shall be deposited at Geneva with the League of Nations at the same time as the ratifications of the Treaty concluded this day between France and the Kingdom of the Serbs, Croats and Slovenes.

It shall enter into and remain in force under the same conditions as the said Treaty.

Done at Paris, November 11, 1927

A Briand  
Dr V Marinkovitch

## PERMANENT COMMISSION OF CONCILIATION

*President appointed by both Parties*

GEORGE WOODWARD WICKERHAM, former Attorney General of the United States (*American*)

*Members appointed by both Parties*

BARON ROITN-JAIQUFMYNS (*Belgian*)

QUINONES DE LEÓN (*Spanish*)

*Member appointed by France*

ALEXANDRE ROBERT CONTY, former French Ambassador to Brazil. (*French*)

*Member appointed by the Kingdom of Serbs, Croats and Slovenes*

K. KOUMANOUDI, Mayor of Belgrade (*Jugoslavian*)

## No. 92

FINLAND SWITZERLAND TREATY OF CONCILIATION,  
ARBITRATION, AND COMPULSORY  
ADJUDICATION

Signed at Berne November 16 1927, ratifications exchanged June 11, 1928

Original text from Switzerland, *Recueil des Lois fédérales* XLIV, 1928, No. 14 English translation from League of Nations, *Treaty Series*, LXXVII, 95 103

*(Translation)*

Le Conseil Fédéral Suisse et Le Président de la République de Finlande

Animés du désir de resserrer les liens d'amitié qui unissent la Suisse et la Finlande et de favoriser, dans l'intérêt de la paix générale, le développement de la procédure de conciliation et de règlement judiciaire appliquée aux différends internationaux,

décidés à donner, dans les rapports entre les deux pays, le plus large application possible aux principes consacrés par la Résolution de la Société des Nations, en date

The Swiss Federal Council and the President of the Republic of Finland, being desirous of strengthening the ties of friendship uniting Switzerland and Finland and of promoting, in the interests of general peace, the application of the procedure for conciliation and judicial settlement to the adjustment of international disputes,

Being resolved to apply to the fullest extent, in the relations between the two countries, the principles embodied in the resolution of the League of Nations dated September 22nd, 1922, regarding the

<sup>1</sup> See also League of Nations, *Treaty Series*, LXXVII, 94

du 22 septembre 1922, relative à l'institution de commissions de conciliation entre États,

ont résolu de conclure, à cet effet, un traité et ont désigné leurs Plénipotentiaires, savoir:

Le Conseil Fédéral Suisse:

Monsieur Giuseppe Motta, Président de la Confédération, Chef du Département Politique Fédéral,

Le Président de la République de Finlande:

Son Excellence Monsieur Rafael W. Erich, Envoyé extraordinaire et Ministre plénipotentiaire de Finlande en Suisse,

lesquels, après s'être communiqué leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Les Parties contractantes s'engagent à soumettre à une procédure de conciliation, préalablement à toute procédure judiciaire, tous les différends, de quelque nature qu'ils soient, qui viendraient à s'élever entre elles et n'auraient pu être résolus par la voie diplomatique.

Il appartiendra à chacune des Parties contractantes de décider du moment à partir duquel la procédure de conciliation pourra être substituée aux négociations diplomatiques.

Les litiges pour la solution desquels une juridiction spéciale est prévue par d'autres engagements en vigueur entre les Parties contractantes seront, toutefois, portés directement devant cette juridiction.

ART. 2. Lorsqu'il s'agit d'un litige qui, aux termes de la législation de l'une des Parties, relève de la compétence d'une autorité judiciaire, la Partie défenderesse pourra s'opposer à ce qu'il soit soumis à une procédure de concili-

ation de Commissions of Conciliation between States,

Have decided for that purpose to conclude a Treaty and have appointed as their Plenipotentiaries:

The Swiss Federal Council:

M. Giuseppe Motta, President of the Confederation, Head of the Federal Political Department;

The President of the Republic of Finland:

His Excellency M. Rafael W. Erich, Envoy Extraordinary and Minister Plenipotentiary of Finland in Switzerland;

Who, after having communicated their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1. The Contracting Parties undertake to submit all disputes of whatever kind which may arise between them, and which it has not been possible to adjust by diplomacy, to a procedure of conciliation, before having resort to any judicial procedure.

Each of the Contracting Parties shall be free to judge as to the moment when the procedure of conciliation may be substituted for diplomatic negotiations.

Disputes, for the settlement of which a special tribunal is provided by other engagements in force between the Contracting Parties, shall, however, be brought direct before such tribunal.

ART. 2. In the case of a dispute, the occasion of which, according to the law of one of the Parties, falls within the competence of a judicial authority, the defendant Party may oppose the submission of the dispute to a procedure of conciliation,



ation et, le cas échéant, à un règlement judiciaire tant qu'il n'aura pas fait l'objet d'une décision définitive de la part de cette autorité judiciaire. Au cas où la Partie demanderesse entendrait contester cette décision judiciaire, le litige devra être soumis à la procédure de conciliation une année au plus tard à compter de cette décision.

ART. 3. Dans les six mois qui suivront l'échange des ratifications du présent traité, les Parties contractantes institueront une Commission permanente de conciliation, composée de cinq membres.

Les Parties nommeront chacune un membre à leur gré et désigneront les trois autres d'un commun accord. Ces trois membres ne devront, ni être des ressortissants des Parties contractantes, ni avoir leur domicile sur leur territoire ou se trouver à leur service.

Le président de la Commission sera nommé d'un commun accord parmi les membres à désigner en commun.

Les membres de la Commission seront nommés pour trois ans. Sauf accord contraire entre les Parties, les membres désignés en commun ne pourront être révoqués pendant la durée de leur mandat.

ART. 4. En cas de décès ou de retraite de l'un des membres de la Commission de conciliation, il devra être pourvu à son remplacement pour le reste de la durée de son mandat, si possible dans les trois mois qui suivront, et, en tout cas, aussitôt qu'un différend aura été soumis à la Commission.

Au cas où l'un des membres de la Commission désignés en commun par les Parties contractantes serait momentanément empêché de prendre part aux travaux de la Commission par suite de maladie

and if necessary to judicial settlement, until a final judgment has been delivered by the aforesaid judicial authority. If the plaintiff Party desires to contest such judgment, the dispute shall be submitted to the procedure of conciliation at latest one year from the date of its delivery.

ART. 3. Within six months after the exchange of the ratifications of the present Treaty, the Contracting Parties shall set up a permanent Conciliation Commission composed of five members.

Each Party shall appoint one member of its own choosing, the other three being nominated by agreement. These three last-named members may not be nationals of the Contracting Parties, nor be habitually resident in their territories, nor be employed in their service.

The President of the Commission shall be appointed by agreement from among the jointly nominated members.

The members of the Commission shall be appointed for three years. Those jointly nominated may not be relieved of their functions during their term of office, unless otherwise agreed between the Parties.

ART. 4. A vacancy caused by the death or retirement of a member of the Conciliation Commission shall be filled for the remainder of that member's term of office, if possible within the next three months and in any case as soon as a dispute is submitted to the Commission.

Should one of the members jointly designated by the Contracting Parties be temporarily unable to take part in the work of the Commission owing to illness or any other circumstance, the Parties shall appoint a substitute by agree-

ou de toute autre circonstance, les Parties s'entendront pour désigner un suppléant, qui siégera temporairement à sa place. Si la désignation de ce suppléant n'intervient pas dans un délai de trois mois à compter de la vacance temporaire du siège, il sera procédé conformément à l'article 5 du présent traité.

Si, à l'expiration du mandat d'un membre de la Commission, il n'est pas pourvu à son remplacement, son mandat est censé renouvelé pour une période de trois ans; les Parties se réservent, toutefois, de transférer, à l'expiration du terme de trois ans, les fonctions de président à un autre des membres de la Commission désignés en commun.

Un membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part à l'examen du différend jusqu'à ce que la procédure soit terminée, nonobstant le fait que son remplaçant aurait été désigné.

ART. 5. Si la désignation des membres de la Commission de conciliation à désigner en commun ou du président n'intervient pas dans le délai prévu de six mois ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, les nominations seront effectuées, à la demande d'une seule des Parties, par le Président de la Cour permanente de Justice internationale ou, si celui-ci est ressortissant de l'un des Etats contractants, par le Vice-Président ou, si celui-ci se trouve dans le même cas, par le membre le plus âgé de la Cour.

ART. 6. Dans un délai de quinze jours à compter de la date à laquelle l'une des Parties contractantes aura porté un différend devant la

ment to take his place for the time being. If such appointment has not been carried out within three months from the date on which the seat became temporarily vacant, the procedure laid down in Article 5 of the present Treaty shall be followed.

If on the expiration of a Commissioner's term of office no arrangement has been made to replace him, his mandate shall be deemed to be renewed for a period of three years; nevertheless, the Parties may decide, on the expiration of the period of three years, to transfer the functions of President to another of the members of the Commission jointly designated by the Parties.

A member of the Commission whose term of office expires while proceedings are still in progress shall continue to take part in the examination of the dispute until the close of such proceedings, even if his successor has already been appointed.

ART. 5. If the appointment of the members of the Conciliation Commission to be nominated jointly or of the President is not made within the authorised period of six months or, in the case of their replacement, within three months after the vacancy occurs, such appointments shall be made, on the request of one Party only, by the President of the Permanent Court of International Justice or, if he is a national of one of the Contracting States, by the Vice-President, or, if the latter is similarly situated, by the eldest member of the Court.

ART. 6. Within two weeks from the date on which one of the Contracting Parties has referred a dispute to the Conciliation Commis-

Commission de conciliation, chacune des Parties pourra, pour l'examen de ce différend, remplacer le membre permanent désigné par elle par une personne possédant une compétence spéciale dans la matière.

La Partie qui voudrait user de ce droit en avertira immédiatement l'autre Partie; celle-ci aura, dans ce cas, la faculté d'user du même droit dans un délai de quinze jours à partir du jour où l'avertissement lui sera parvenu.

Chaque Partie se réserve, cependant, de nommer immédiatement un suppléant pour remplacer temporairement le membre permanent désigné par elle qui, par suite de maladie ou de toute autre circonstance, se trouverait momentanément empêché de prendre part aux travaux de la Commission.

ART. 7. La Commission de conciliation aura pour tâche de faciliter la solution du différend en éclaircissant, par un examen impartial et consciencieux, les questions de fait et en formulant des propositions en vue du règlement du litige, conformément aux dispositions de l'article 12 du présent traité.

La Commission sera saisie sur requête adressée à son président par l'une des Parties contractantes. Notification de cette requête sera faite, en même temps, à la Partie adverse par la Partie qui demandera l'ouverture de la procédure de conciliation.

ART. 8. La Commission de conciliation se réunira, sauf accord contraire, au lieu désigné par son président.

ART. 9. La procédure devant la Commission de conciliation sera contradictoire.

sion either Party may, for the purpose of the particular dispute, replace the permanent member of the Commission nominated by itself by a person possessing special competence in the matter.

The Party desiring to make use of this right shall immediately inform the other Party; the latter shall in that case be entitled to take similar action within fifteen days after receipt of such notice.

Either Party shall, nevertheless, be entitled to appoint a substitute forthwith in temporary replacement of the permanent member nominated by itself if such member is temporarily prevented by illness or any other circumstance from taking part in the Commission's work.

ART. 7. The task of the Conciliation Commission shall be to further the settlement of the dispute by an impartial and conscientious examination of the facts and by formulating proposals with a view to settling the case in conformity with the terms of Article 12 of the present Treaty.

The Commission shall be informed of a dispute by an application addressed to its President by one of the Contracting Parties. Such application shall be notified at the same time to the other Party by the Party which is requesting the institution of the conciliation procedure.

ART. 8. The Conciliation Commission shall meet at the place chosen by its President, unless there is an agreement to the contrary.

ART. 9. The procedure before the Conciliation Commission shall provide for both Parties being heard.

La Commission réglera elle-même la procédure, en tenant compte, sauf décision contraire prise à l'unanimité, des dispositions contenues au Titre III de la Convention de La Haye, du 18 octobre 1907, pour le règlement pacifique des conflits internationaux.

Les délibérations de la Commission auront lieu à huis clos, à moins que la Commission, d'accord avec les Parties, n'en décide autrement.

ART. 10. Sauf disposition contraire du présent traité, les décisions de la Commission de conciliation seront prises à la majorité des voix. Chaque membre disposera d'une voix. Si tous les membres ne sont pas présents, la voix du président sera décisive en cas de partage. La Commission ne pourra prendre des décisions portant sur le fond du différend que si tous les membres sont présents.

ART. 11. Les Parties contractantes fourniront à la Commission de conciliation toutes les informations utiles et lui faciliteront, à tous égards et dans toute la mesure du possible, l'accomplissement de sa tâche.

ART. 12. La Commission de conciliation présentera son rapport dans les six mois à compter du jour où elle aura été saisie du différend, à moins que les Parties contractantes ne décident, d'un commun accord, de proroger ce délai.

Le rapport comportera un projet de règlement du différend toutes les fois que les circonstances le permettront.

L'avis motivé des membres restés en minorité sera consigné dans le rapport.

Un exemplaire du rapport, signé par le président, sera soumis à chacune des Parties.

The Commission shall determine its own procedure, being guided, in the absence of a unanimous decision to the contrary, by the provisions of Chapter III of the Hague Convention, dated October 18, 1907, for the Pacific Settlement of International Disputes.

The proceedings of the Commission shall be in private unless the Commission shall decide otherwise, with the consent of the Parties.

ART. 10. Except as otherwise provided in the present Treaty, the decisions of the Conciliation Commission shall be taken by a majority vote. Each member shall have one vote. If all the members are not present and if the votes are equally divided, the President shall have a casting vote. The Commission may not take a decision affecting the substance of the dispute unless all the members are present.

ART. 11. The Contracting Parties shall furnish the Conciliation Commission with all useful information and shall afford it every assistance to the utmost of their powers in the execution of its duties.

ART. 12. The Conciliation Commission shall present its report within six months from the date on which it was informed of the dispute, unless the Contracting Parties decide by agreement to extend this period.

The report shall contain a proposal for the settlement of the dispute, whenever the circumstances permit.

The reasoned opinion of the members forming the minority shall be recorded in the report.

A copy of the report, signed by the President, shall be sent to each Party.

Le rapport de la Commission n'aura, ni en ce qui concerne l'exposé des faits, ni en ce qui concerne les considérations juridiques, le caractère d'une sentence arbitrale.

ART. 13. Les Parties porteront à leur connaissance réciproque, ainsi qu'à la connaissance du président de la Commission de conciliation, dans un délai raisonnable, n'excédant toutefois pas la durée de trois mois, si elles acceptent les conclusions du rapport et les propositions qui y sont contenues.

Il appartiendra aux Parties de décider, d'un commun accord, si le rapport de la Commission et le procès-verbal des débats peuvent être publiés avant l'expiration du délai dans lequel elles doivent se prononcer sur les propositions formulées dans le rapport.

ART. 14. Pendant la durée effective de la procédure, les membres de la Commission de conciliation recevront une indemnité dont le montant sera arrêté entre les Parties contractantes.

Chaque Partie supportera ses propres frais et une part égale des frais de la Commission.

ART. 15. Si l'une des Parties contractantes n'accepte pas les propositions de la Commission de conciliation ou ne se prononce pas dans le délai fixé par son rapport, chacune d'entre elles pourra demander que le litige soit soumis à la Cour permanente de Justice internationale conformément à l'obligation qu'elles ont assumée en adhérant à la disposition facultative de l'article 36 du statut de la Cour. Les Parties contractantes demeureront liées entre elles, jusqu'à l'expiration du présent traité, par cette obligation, même au cas où elle viendrait à prendre fin, dans l'inter-

The report of the Commission shall not be in the nature of an arbitral award as regards either the statement of facts or the legal considerations.

ART. 13. The Parties shall inform each other and the President of the Conciliation Commission within a reasonable time, not however exceeding three months, whether they accept the findings of the report and the proposals contained therein.

The Parties shall decide, by agreement, whether the Commission's report and the minutes of the discussions may be published before the expiry of the period within which they have to make their decision regarding the proposals contained in the report.

ART. 14. For the actual duration of the procedure, the members of the Conciliation Commission shall receive emoluments to be fixed by arrangement between the Contracting Parties.

Each Party shall bear its own costs and one half the costs of the Commission.

ART. 15. If one of the Contracting Parties does not accept the proposals of the Conciliation Commission or does not make a decision within the period fixed in the latter's report, either Party may demand that the dispute be submitted to the Permanent Court of International Justice in conformity with the obligation which the Parties assumed by their accession to the Optional Clause of Article 36 of the Court's Statute. The Contracting Parties shall continue, until the expiry of the present Treaty, to be mutually bound by that obligation, even if it should meanwhile have

valle, pour l'une d'entre elles ou pour toutes deux

Les Parties conviennent, en outre, que, dans le cas où le litige ne rentrerait pas dans l'une des quatre catégories de différends d'ordre juridique énumérées à l'article 36, alinéa 2, du statut de la Cour de Justice, chacune d'entre elles pourra néanmoins demander qu'il soit déféré à la Cour permanente de Justice internationale, qui le tranchera *ex aequo et bono* dans la mesure où il n'existerait pas de règle de droit applicable

ART 16 Les Parties contractantes établiront, dans chaque cas particulier, un compromis spécial déterminant nettement l'objet du différend, les compétences particulières qui pourraient être dévolues à la Cour permanente de Justice internationale, ainsi que toutes autres conditions arrêtées entre elles

Le compromis sera établi par échange de notes entre les Gouvernements des Parties contractantes

Il sera interprété en tous points par la Cour de Justice

Si le compromis n'est pas arrêté dans les trois mois à compter du jour où l'une des Parties a été saisie d'une demande aux fins de règlement judiciaire, chaque Partie pourra saisir la Cour de Justice par voie de simple requête

ART 17 Si la Cour permanente de Justice internationale établissait qu'une décision d'une instance judiciaire ou de toute autre autorité relevant de l'une des Parties contractantes se trouve entièrement ou partiellement en opposition avec le droit des gens et si le droit constitutionnel de cette Partie ne permettrait pas ou ne permettrait qu'imparfaitement d'effacer par voie

ceased to have effect for either or both of them

The Parties further agree that if the dispute should not fall within one of the four categories of legal disputes specified in paragraph 2 of Article 36 of the Statute of the Court of Justice, either Party may nevertheless demand that it shall be submitted to the Permanent Court of International Justice, which shall settle it *ex aequo et bono*, in so far as no rule of law is applicable to the case

ART 16 In each individual case, the Contracting Parties shall draw up a special agreement clearly setting forth the subject of the dispute, the special powers which may be conferred upon the Permanent Court of International Justice, and any other conditions which they may agree to establish

The special agreement shall be constituted by an exchange of notes between the Governments of the Contracting Parties

All points therein shall be interpreted by the Court of Justice

If the special agreement is not drawn up within a period of three months from the day on which one of the Parties received a request for judicial settlement, either Party may bring the matter before the Court of Justice by a simple application

ART 17 If the Permanent Court of International Justice finds that a decision of a court of law or any other authority of either of the Contracting Parties is wholly or in part contrary to international law, and if the constitutional law of the said Party does not permit, or only partially permits, the consequences of the decision in question to be annulled by administrative action,

administrative les conséquences de la décision dont il s'agit, il serait accordé à la Partie lésée une satisfaction équitable d'un autre ordre.

ART. 18. L'arrêt rendu par la Cour permanente de Justice internationale sera exécuté de bonne foi par les Parties.

Les difficultés auxquelles son interprétation pourrait donner lieu seront tranchées par la Cour de Justice, que chacune des Parties pourra saisir à cette fin par voie de simple requête.

ART. 19. Durant le cours de la procédure de conciliation ou de la procédure judiciaire, les Parties contractantes s'abstiendront de toute mesure pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission de conciliation ou sur l'exécution de l'arrêt de la Cour permanente de Justice internationale.

ART. 20. Les contestations qui surgiraient au sujet de l'interprétation ou de l'exécution du présent traité seront, sauf convention contraire, soumises directement à la Cour permanente de Justice internationale par voie de simple requête.

ART. 21. Le présent traité sera ratifié. Les instruments de ratification en seront échangés à Berne dans le plus bref délai possible.

Le traité entrera en vigueur dès l'échange des ratifications. Il est conclu pour la durée de dix ans à compter de son entrée en vigueur. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il sera censé être renouvelé pour une nouvelle période de cinq ans, et ainsi de suite.

Si une procédure de conciliation ou une procédure judiciaire est pendante lors de l'expiration du

the injured Party shall be given equitable satisfaction of another kind.

ART. 18. The judgment of the Permanent Court of International Justice shall be acted upon by the Parties in good faith.

Any difficulties regarding the interpretation of the aforesaid judgment shall be settled by the Court of Justice upon a simple application for this purpose, by either Party.

ART. 19. During the course of the conciliation procedure or of the judicial procedure, the Contracting Parties shall abstain from all measures capable of producing consequences prejudicial to the acceptance of the Conciliation Commission's proposals or to the execution of the judgment of the Permanent Court of International Justice.

ART. 20. Any disputes which may arise as to the interpretation or execution of the present Treaty shall, unless otherwise agreed, be submitted direct to the Permanent Court of International Justice by a simple application.

ART. 21. The present Treaty shall be ratified. The instruments of ratification shall be exchanged at Berne as early as possible.

The Treaty shall come into force immediately on the exchange of the ratifications. It is concluded for a period of ten years reckoned from the date of its coming into force. Unless denounced six months before the expiry of that period, it shall be deemed to have been renewed for a further period of five years, and similarly thereafter.

If a procedure for conciliation or a judicial procedure is pending at

présent traité, elle suivra son cours conformément aux dispositions du présent traité ou de toute autre convention que les Parties contractantes seraient convenues de lui substituer.

En foi de quoi, les Plénipotentiaires ont signé le présent traité.

Fait, en double exemplaire, à Berne, le seize novembre mil neuf cent vingt-sept.

Motta  
R. W. Erich

the time of the expiry of the present Treaty, it shall pursue its course in conformity with the provisions of the present Treaty or of any other convention which the Contracting Parties may have agreed to substitute therefor.

In faith whereof the Plenipotentiaries have signed the present Treaty.

Done in duplicate at Berne, the sixteenth day of November, one thousand nine hundred and twenty-seven.

Motta  
R. W. Erich

#### PERMANENT COMMISSION OF CONCILIATION

##### *President appointed by both Parties*

A. DE LAPRADELLE, Professor of International Law at the University of Paris. (*French.*)

##### *Members appointed by both Parties*

THEODOR K. NIIMLYR, Professor of International Law at the University of Kiel. (*German.*)

ARNOLD RALSJAD, former Minister for Foreign Affairs of Norway. (*Norwegian.*)

##### *Member appointed by Finland*

EINAR BOOK, Director of the Social Welfare Office at Helsingfors. (*Finnish.*)

##### *Member appointed by Switzerland*

ERNEST PILRIER, Member of the Swiss National Council. (*Swiss.*)



## No. 93

PORTUGAL-SPAIN TREATY OF CONCILIATION,  
ARBITRATION, AND COMPULSORY  
ADJUDICATION

Signed at Lisbon January 18, 1928, ratifications exchanged May 28, 1928

Original text<sup>1</sup> and English translation from League of Nations, *Treaty Series*, LXXVII, 106-121

(Translation)

O Presidente da Republica Portuguesa e Sua Magestade o Rei de Espanha, animados do desejo de estreitar os laços de amizade existentes entre os dois Países e de contribuir para a manutenção da paz geral, resolvendo, segundo os princípios mais elevados do Direito Internacional Publico, os desacordos entre os dois Países, resolveram concluir para este efeito um Tratado geral de Conciliação, Regulamento Judicial e Arbitragem, e designaram por seus Plenipotenciarios, a saber

O Presidente da Republica Portuguesa

Sua Excelência o Senhor Doutor António Maria de Bettencourt Rodrigues, Ministro dos Negocios Estrangeiros, Gra Cruz da Ordem Militar de Cristo, Grande Oficial da Legião de Honra, etc, etc, etc

Sua Magestade o Rei de Espanha

Sua Excelência o Senhor Don Cristóbal Fernandez Vallín y Alfonso, Seu Embaixador Extraordinário e Plenipotenciário em Lisboa, Gentilhombre de Sua Real Câmara, Grã-Cruz da Ordem de Isabel a Católica e do Mérito Naval, Comendador da Ordem Militar de São Tiago da Espada, etc, etc, etc,

The President of the Portuguese Republic and His Majesty the King of Spain being desirous of strengthening the ties of friendship which exist between the two countries and of contributing to the maintenance of the general peace by settling disputes between the two countries in accordance with the highest principles of Public International Law, have resolved to conclude for this purpose a general treaty of conciliation, judicial settlement and arbitration, and have appointed as their Plenipotentiaries

The President of the Portuguese Republic

His Excellency Dr António Maria de Bettencourt Rodrigues, Minister for Foreign Affairs, Grand Cross of the Military Order of Christ, Grand Officer of the Legion of Honour, etc, etc, etc

His Majesty the King of Spain

His Excellency Don Cristóbal Fernandez Vallín y Alfonso, His Ambassador Extraordinary and Plenipotentiary in Lisbon, Gentleman of the Chamber, Grand Cross of the Order of Isabella the Catholic and of Naval Merit, Commander of the Military Order of St James of the Sword, etc, etc, etc

The Spanish text is also authentic

os quais, depois de trocarem os seus Plenos Poderes, que foram achados em boa e devida forma, convieram nas disposições seguintes

ARTIGO 1º As Partes Contractantes comprometem-se a submeter a um processo de conciliação os litígios e conflitos, de qualquer natureza que sejam, que venham a surgir entre elas e que não puderem ser resolvidos pela via diplomática num prazo razoável

No caso de malôgro do processo de conciliação, o litigio ou o conflito será submetido ao Tribunal Permanente de Justiça Internacional

Os desacordos para cuja solução está prevista uma jurisdição especial por outros acordos em vigor entre as Partes Contractantes serão, não obstante, submetidos à dita jurisdição

ART 2º Quando se trate de um litigio que nos termos da legislação de uma das Partes, seja da competência de uma autoridade judicial, qualquer das Partes poderá opôr-se a que seja submetido a um procedimento de conciliação e eventualmente a processo judicial nos termos deste Tratado enquanto não houver sido objecto de uma decisão definitiva por parte da dita autoridade judicial Neste caso deverá ser submetido ao procedimento de conciliação no prazo máximo de um ano a contar da referida decisão

ART 3º. As Partes Contractantes instituirão uma Comissão Permanente de Conciliação composta de cinco membros As Partes nomearão, cada uma, um Comissário de sua livre escolha e designarão, de comum acordo, os outros três e, de entre estes últimos, o Presidente da Comissão Estes

Who, having communicated their full powers found in good and due form, have agreed upon the following provisions

ARTICLE 1 The Contracting Parties undertake to submit to a procedure of conciliation all disputes and conflicts of every kind which may arise between them and which it may not have been possible to settle through the diplomatic channel within a reasonable time

Should the procedure of conciliation fail, the dispute or conflict shall be submitted to the Permanent Court of International Justice

Disputes for the settlement of which a special procedure is provided in other agreements in force between the Contracting Parties shall, however, be settled in accordance with such procedure

ART 2 In the case of a dispute which, according to the laws of one of the Parties, falls within the jurisdiction of a judicial authority, either of the Parties may require that the dispute shall not be submitted for conciliation or, as the case may be, to judicial settlement as provided in the present Treaty until a judgment with final effect has been pronounced by the judicial authority in question In such case it shall be submitted for conciliation within one year at the latest, counting from the date on which the judgment was given

ART 3 The Contracting Parties shall set up a Permanent Conciliation Commission consisting of five members The Parties shall each nominate a Commissioner of their own choice, and shall appoint by agreement the three other Commissioners and from among the latter, the President of the Com-

três Comissários não deverão ser nacionais de qualquer das Partes Contractantes, nem ter domicílio no seu território, nem estar ao seu serviço. Devem ser os três de diferentes nacionalidades.

Os Comissários serão nomeados por três anos. Se, ao expirar o mandato de um membro da Comissão, não se tiver procedido a sua substituição, o seu mandato será considerado como renovado por um período de três anos. As Partes reservam-se contudo a faculdade de transferir, no termo do prazo de três anos, as funções do Presidente a outro dos membros da Comissão designados em comum.

O membro cujo mandato expirar durante o curso de um processo continuará tomando parte no exame da causa até ao termo desta e ainda que tenha sido designado o seu sucessor.

No caso de falecer ou de se retirar algum dos membros da Comissão deverá proceder-se a sua substituição para o resto da duração do seu mandato dentro do prazo de três meses sendo possível e em todo o caso logo que seja submetido um desacôrdo a Comissão.

No caso de um dos membros da Comissão de Conciliação designados em comum pelas Partes Contractantes estar momentaneamente impedido de tomar parte nos trabalhos da Comissão por motivo de doença ou por qualquer outra circunstancia as Partes pôr-se-hão de acôrdo para designar um suplente que funcionará temporariamente no lugar daquele. Se a designação deste suplente não fôr feita no prazo de três meses a contar da data da vacatura temporaria do posto proceder-se-há de acôrdo com o que preceitua o ultimo parágrafo do presente artigo.

mission These three Commissioners must not be nationals of the Contracting Parties nor may they have their domicile in their territory or be employed in their service. They must all three be of different nationalities.

The Commissioners shall be appointed for three years. If on the expiration of a member's term of office no steps have been taken to replace him his term of office shall be deemed to have been renewed for a period of three years. The Parties may, however, decide, on the expiration of the term of three years to appoint another member of the Commission, designated jointly to the office of President.

A member whose term of office expires while a case is proceeding shall continue to take part in the examination of the dispute until the proceedings have been concluded even though his successor has been appointed.

In case of the death or resignation of one of the members of the Commission steps shall be taken to replace him for the remainder of his term of office if possible, within three months of his death or resignation and in any case as soon as a dispute is submitted to the Commission.

Should one of the members of the Conciliation Commission appointed jointly by the Contracting Parties be temporarily prevented from taking part in the work of the Commission owing to illness or some other circumstance, the Parties shall agree to appoint a substitute who shall act temporarily in his place. If the substitute has not been appointed within three months as from the date of the temporary vacancy the procedure to be followed shall be that laid down in the last paragraph of the present Article.

Quando não haja pendente nenhum processo cada uma das Partes poderá exonerar o Comissário nomeado por ela e designar lhe successor

Quando haja iniciado um processo, e enquanto este durar efectivamente, os membros nomeados de comum acôrdo receberão uma remuneração cuja importância será fixada pelas Partes Contractantes e satisfeita por elas em partes iguais. Pelo contrário, cada uma das Partes fixará e suportará por si própria a remuneração do membro da Comissao nomeado por ela.

Cada uma das Partes satisfará uma cota igual nos gastos gerais da Comissao

A Comissao Permanente de Conciliação será constituída dentro de seis mêses seguintes à troca das ratificações do presente Tratado

Se a nomeação dos membros que não-de ser designados de comum acôrdo não se efectuar no prazo de seis mêses a contar da data da troca das ratificações ou, em caso de substituição, no de três mêses a partir da vacatura do lugar, proceder-se-á as nomeações em conformidade com o artigo 45 da Convenção da Haia para a solução pacífica dos conflitos internacionais, de 18 de Outubro de 1907

ART 4º Salvo acôrdo em contrário, o processo de conciliação será regulado pela Convenção da Haia para a solução pacífica dos conflitos internacionais, de 18 de Outubro de 1907

ART 5º A Comissao de Conciliação poderá ser chamada ao desempenho da sua missão por uma só das Partes. Esta notificará o seu pedido ao Presidente da Comissão e à Parte contrária

When no case is proceeding, each of the Contracting Parties may recall the Commissioner appointed by itself, and designate his successor

When proceedings have been instituted and while they are actually in progress the members appointed jointly shall receive an allowance the amount of which shall be fixed by the Contracting Parties and shall be borne by them in equal shares. Each Party shall, however, itself determine and pay the allowance of its own member of the Commission

Each Party shall contribute an equal share to the general expenses of the Commission

The Permanent Conciliation Commission shall be constituted within six months of the exchange of the ratifications of the present Treaty

Should the members to be appointed jointly not have been nominated within six months of the date on which the ratifications were exchanged, or in the case of the appointment of a substitute, within three months of the date on which the vacancy occurred, the appointments shall be made in conformity with Article 45 of the Hague Convention of October 18 1907, for the Pacific Settlement of International Disputes

ART 4 Failing any agreement to the contrary, the procedure of conciliation shall be as laid down in the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes

ART 5 The Conciliation Commission may be informed by either of the Parties, the latter shall notify its request to the President of the Commission and to the other Party

A Comissão poderá contudo oferecer espontaneamente o seu concurso, se o seu Presidente e dois dos seus membros convierem nisso

As Partes Contractantes com prometem se a facilitar, em todos os casos e em todos os sentidos os trabalhos da Comissão e em particular a empregar todos os meios de que disponham segundo as suas legislações, para lhe permitir efectuar nos seus territórios a citação e audição de testemunhas e peritos, e a realização de vistorias

ART 6 A Comissão de Conciliação terá a seu cargo examinar as questões concretas que lhe forem submettidas consignar o resultado das suas investigações num relatório destinado a elucidar as questões de facto e facilitar assim a solução dos desacórdios. No seu relatório precisará os pontos de controversia que motivam esses desacórdios e o fará acompanhar das recomendações susceptíveis de facilitar um acôrdo entre as Partes. O relatório devera ser apresentado dentro de seis meses a partir do dia em que o assunto haja sido submetido a Comissão a menos que as Partes decidam abreviar ou prorrogar esse prazo. Devera ser feito em três exemplares um para cada uma das Partes e o terceiro para ser conservado nos arquivos da Comissão.

A Comissão fixar o prazo dentro do qual as Partes deverao pronunciar se sobre as suas recomendações, assim como o prazo ate cuja expiração poderao em caso de malogro do processo de conciliação, submeter se houver lugar para isso a questão a decisão judicial ou a arbitragem. Estes dois prazos nao poderao contudo ir alem de seis mēses o primeiro e de tres o segundo

The Commission may, however, offer its services of its own motion should its President and two of its members agree to such a course of action

The Contracting Parties undertake to assist the Commission in its work in every circumstance and in every respect and in particular to employ all the means at their disposal under their respective laws to enable it to proceed in their territories to the summoning and hearing of witnesses and experts and to visit the localities in question

ART 6 The duty of the Conciliation Commission shall be to consider the special points submitted to it embody the result of its enquiry in a report elucidating the questions of fact, and thus facilitate the settlement of the disputes. In its report it shall define the controversial points which have led to the disputes and add recommendations likely to facilitate an agreement between the Parties.

This report must be submitted within six months as from the day on which the Commission was first notified of the dispute unless the Contracting Parties decide to shorten or extend this period. The report must be drawn up in three copies one copy being sent to each Party and the third filed in the archives of the Commission.

The Commission shall prescribe the period within which the Parties shall be required to take their decision as regards its recommendations and also the period within which the Parties may in case the conciliation procedure fails submit the dispute, if necessary to judicial settlement or arbitration. The former of these time limits may not, however, exceed six months, nor the latter three months.

O relatório da Comissão não terá, nem no que se refere à exposição de factos nem no que respeite às considerações jurídicas, o carácter de uma sentença definitiva obrigatória

ART 7<sup>o</sup> Se as Partes não aceitarem as recomendações da Comissão de Conciliação, cada uma delas poderá, dentro do prazo fixado por esta última, pedir que o litígio ou o conflito seja submetido à decisão do Tribunal Permanente de Justiça Internacional

Quando se trate de um desacôrdo que, na opinião do Tribunal, não seja de carácter jurídico, as Partes Contractantes convêm em que o Tribunal cuja sentença será obrigatória para elas, decidirá *ex aequo et bono*

ART 8<sup>o</sup> O Tribunal Permanente de Justiça Internacional será competente para conhecer de qualquer questão, inclusive de toda a discussão que possa surgir sobre a interpretação e execução do presente Tratado. As Partes Contractantes poderão contudo convir em submeter qualquer desacôrdo a um Tribunal Arbitral constituído segundo os artigos 55 e seguintes da Convenção da Haia para a solução pacífica dos conflitos internacionais de 18 de Outubro de 1907, ou segundo qualquer outro acôrdo em que possam convir

ART 9<sup>o</sup> As Partes Contractantes atendo se às disposições do Estatuto e do Regulamento do Tribunal Permanente de Justiça Internacional, estabelecerão um compromisso, com o fim de determinar o objecto do desacôrdo, as competências particulares que podem ser conferidas ao Tribunal, assim como todas as condições em que as Partes tenham acôrdo

The Commission's report shall not be in the nature of a compulsory final award as regards either the statement of facts, or the legal considerations

ART 7 Should the Parties not accept the recommendations of the Commission of Conciliation, either of them may within a period prescribed by the Commission, request that the dispute or conflict be submitted to the Permanent Court of International Justice

If, in the opinion of the Court, the dispute is not of a juridical nature, the Contracting Parties agree that the Court shall settle the matter *ex aequo et bono*, its judgment being binding on both Parties

ART 8 The Permanent Court of International Justice shall be competent to take cognisance of any dispute including any discussion which may arise with regard to the interpretation and execution of the present Treaty. The Contracting Parties may, however, agree to submit any dispute to a Court of Arbitration set up in conformity with Articles 55 et seq. of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes, or in conformity with any other agreement concluded between them

ART 9 The Contracting Parties shall, in conformity with the provisions of the Statute and Rules of the Permanent Court of International Justice, drawn up a special agreement specifying the subject of the dispute, the special jurisdiction which may be conferred upon the Court and any other conditions agreed upon between the Parties

O compromisso será estabelecido por troca de notas entre os Governos das Partes Contractantes e será interpretado em todos os seus pontos pelo Tribunal Permanente de Justiça Internacional

Se o compromisso não houver sido estabelecido dentro de três meses a contar do dia em que uma das Partes tenha sido demandada para fins de solução judicial, cada uma das Partes poderá recorrer ao Tribunal por via de simples requerimento

ART 10 Se uma sentença proferida em conformidade do presente Tratado reconhecer que uma decisão de carácter judicial ou de qualquer outra autoridade dependente de uma das Partes Contractantes se acha completa ou parcialmente em oposição com o direito das gentes e se o direito constitucional dessa Parte não permitir ou só permitir imperfeitamente anular por via administrativa as consequências da decisão de que se trata a sentença concederá a Parte lesada uma compensação equitativa de outra ordem

ART 11 A sentença proferida será executada de boa fé pelas Partes

Emquanto correr o processo de conciliação ou o processo judicial ou de arbitragem as Partes Contractantes comprometem-se a abster-se, tanto quanto seja possível, de adoptar medidas susceptíveis de produzir uma repercussão prejudicial sobre a aceitação das propostas da Comissão de Conciliação ou sobre a execução da sentença judicial ou do laudo arbitral

ART 12 O presente Tratado será ratificado no mais curto prazo

The special agreement shall be constituted by an exchange of notes between the Governments of the Contracting Parties, and all points therein shall be interpreted by the Permanent Court of International Justice

If the special agreement has not been drawn up within three months of the day on which one of the Parties has been requested to submit the matter for judicial settlement, either Party may bring the question before the Court of Justice by simple application

ART 10 If, in a judgment rendered in conformity with the present Treaty it is found that a ruling of a court of law or any other authority of one of the Contracting Parties is wholly or partly at variance with international law, and if the constitutional law of that Party does not allow, or only inadequately allows, the cancellation of the consequences of this decision by administrative action the Party prejudiced shall, in the judgment in question be granted equitable satisfaction in some other form

ART 11 The judgment rendered shall be carried out by the Parties in good faith

During the procedure of conciliation or the judicial procedure or arbitration, the Contracting Parties undertake to abstain as far as possible from adopting any measures which might prejudicially affect the acceptance of the proposal of the Conciliation Commission or the execution of the judgment or of the arbitral award

ART 12 The present Treaty shall be ratified as soon as possible

possível e os instrumentos de ratificação trocas-se-hão em Lisboa

Este Tratado é concluído por um período de cinco anos a contar da troca das ratificações. Se não for denunciado seis meses antes da expiração deste prazo, permanecerá em vigor por um novo período de cinco anos e assim sucessivamente. Se, no momento da expiração do presente Tratado, estiver pendente qualquer processo de conciliação, judicial ou de arbitragem, seguirá o mesmo o seu curso conforme as disposições deste Tratado ou de qualquer outro acordo em que as Partes Contractantes tenham vindo para o substituir.

Em fé do que os Plenipotenciários firmam o presente Tratado

Feito em dois exemplares em Lisboa em dezóito de Janeiro de mil novecentos e vinte e oito

António Maria de Bettencourt  
Rodrigues

[Cristóbal I. Vallín]

and the instrument[s] of ratification shall be exchanged at Lisbon.

The Treaty shall be concluded for a period of five years as from the date of the exchange of ratifications. Unless denounced six months before the expiration of this period it shall remain in force for a further period of five years, and similarly thereafter. If any procedure of conciliation or judicial procedure or arbitration is in progress at the time of the expiration of the present Treaty, it shall pursue its course in conformity with the provisions of this Treaty or of any other agreement which the Contracting Parties may have decided to substitute for it.

In faith whereof the Plenipotentiaries have signed the present Treaty

Done in two copies at Lisbon this eighteenth day of January of the year one thousand nine hundred and twenty eight

António Maria de Bettencourt  
Rodrigues

Cristóbal I. Vallín

#### ADDITIONAL PROTOCOL

O Tratado de Arbitragem firmado entre Portugal e Espanha em 1904 e ratificado em 27 de Fevereiro de 1909 fica abrogado pelo present acordo, mas a todas as questões e reclamações por actos, omissões ou disposições anteriores à data da ratificação do novo Tratado de Conciliação, Processo Judicial e Arbitragem, às quais fôsse aplicável o Tratado assinado em 1904 e ratificado em 1909, será aplicado o novo Convenio, tornando extensivas à solução pacífica das ditas questões e reclamações as novas normas estabelecidas, e isto para que o actual Tratado não exclua de uma possível solução pacífica os factos anteriores que teriam tido a

The Treaty of Arbitration concluded between Spain and Portugal in 1904 and ratified on February 27, 1909, is abrogated by the present Agreement, the new Convention shall apply to all questions and claims in respect of acts, omissions or provisions prior to the date of the ratification of the new Treaty of Conciliation, Judicial Settlement and Arbitration to which the Treaty signed in 1904 and ratified in 1909 could have applied; this shall be done by extending the new rules to the pacific settlement of such questions and claims and the present Treaty shall accordingly not exclude the possibility of the pacific settlement of previous ques-



sua solução normal na arbitragem segundo estabelecia o Pacto de 1904

Em fe do que os Plenipotenciários firmam o presente Protocolo

Feito em dois exemplares em Lisboa, em dezóito de Janeiro de mil novecentos e vinte e oite

António Maria de Bettencourt

Rodrigues

Cristóbal I Vallín

tions which would normally have been settled by arbitration according to the 1904 Agreement.

In faith whereof the Plenipotentiaries have signed the present Protocol

Done in two copies at Lisbon this eighteenth day of January of the year one thousand nine hundred and twenty-eight

Antonio Maria de Bettencourt

Rodrigues

Cristóbal F Vallín

#### PERMANENT COMMISSION OF CONCILIATION

No information available

### No. 94

## GERMANY-LITHUANIA TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Berlin January 29 1928, ratifications exchanged May 4 1929

Original text<sup>1</sup> from Germany *Reichsgesetzblatt* 1929 II No 23

#### (Translation)

Das Deutsche Reich und die Republik Litauen, von dem Wunsche erfüllt, ihre freundschaftlichen Beziehungen zu festigen und die Entwicklung des Verfahrens zur friedlichen Beilegung zwischenstaatlicher Streitigkeiten zu fördern, sind übereingekommen einen allgemeinen Schiedsgerichts- und Vergleichsvertrag abzuschließen  
Zu diesem Zweck haben zu Bevollmächtigten ernannt

Der Deutsche Reichspräsident  
den Reichsminister des Auswärtigen Dr Stresemann  
der Präsident der Republik Litauen  
den Ministerpräsidenten und  
Minister der Auswärtigen Angele-

The German Reich and the Republic of Lithuania, being desirous of strengthening the ties of friendship which unite them, and of promoting the development of the procedure for the pacific settlement of international disputes have agreed to conclude a general Treaty of Arbitration and Conciliation

For this purpose they have appointed as their Plenipotentiaries

The President of the German Reich

Dr Stresemann, Minister for Foreign Affairs

The President of the Republic of Lithuania

Professor Augustin Voldemaras,

<sup>1</sup> The Lithuanian text is also authentic

genheiten Prof. Augustin Volde-  
maras,

die, nachdem sie ihre Vollmachten  
geprüft und in guter und gehorger  
Form befunden haben, über fol-  
gende Bestimmungen übereinge-  
kommen sind.

ARTIKEL 1 Die vertragschlie-  
ssenden Teile verpflichten sich, alle  
Streitigkeiten irgendwelcher Art,  
die zwischen ihnen entstehen und  
nicht in angemessener Frist auf  
diplomatischem Wege geschlichtet  
werden können, nach Massgabe  
des gegenwärtigen Vertrags ent-  
weder der Entscheidung des Stan-  
digen Internationalen Gerichtshofs  
im Haag oder eines besonderen  
Schiedsgerichts zu unterbreiten  
oder einem Vergleichsverfahren zu  
unterwerfen

Streitigkeiten, für deren Schlich-  
tung die vertragschliessenden Teile  
durch andere zwischen ihnen be-  
stehende Abmachungen an ein be-  
sonderes Verfahren gebunden sind,  
werden nach Massgabe der Bestim-  
mungen dieser Abmachungen be-  
handelt

ART 2 Der Entscheidung des  
Standigen Internationalen Ge-  
richtshofs werden auf Verlangen  
einer Partei diejenigen Streitig-  
keiten unterbreitet, bei denen die  
Parteien untereinander über ein  
Recht im Streite sind, insbeson-  
dere diejenigen Streitigkeiten, die  
betreffen

erstens Bestand, Auslegung und  
Anwendung eines zwischen den  
beiden Parteien geschlossenen  
Staatsvertrags,

zweitens irgendeine Frage des  
internationalen Rechtes,

drittens das Bestehen einer In-  
sache, die, wenn sie erwiesen wird,  
die Verletzung einer zwischen-  
staatlichen Verpflichtung bedeutet,

viertens Umfang und Art der  
Wiedergutmachung im Falle einer  
solchen Verletzung

Prime Minister and Minister for  
Foreign Affairs,

Who, having verified their full  
powers, which were found in good  
and due form, have agreed upon the  
following provisions

ARTICLE 1 The Contracting  
Parties undertake to submit to the  
decision of the Hague Permanent  
Court of International Justice or of  
a special arbitral tribunal, or to a  
procedure of conciliation, as pro-  
vided in the present Convention,  
all disputes of any nature whatever  
which may arise between them and  
which it has not been possible to  
settle within a reasonable period by  
diplomacy

Disputes for the settlement of  
which a special procedure has been  
laid down in other conventions in  
force between the Contracting  
Parties shall be settled in accord-  
ance with the provisions of such  
conventions

ART 2 At the request of either  
of the Parties disputes in connec-  
tion with which the Parties contest  
a point of law shall be submitted to  
the decision of the Permanent  
Court of International Justice, in  
particular, disputes regarding the  
following subjects

First, the existence, interpreta-  
tion, and application of any Treaty  
concluded between the two Parties,

Secondly, any question of inter-  
national law,

Thirdly, the existence of any  
fact which, if established, would  
constitute a breach of an inter-  
national obligation,

Fourthly, the extent and nature  
of the reparation to be made for the  
breach of such obligation

ART 3 In den im Artikel 2 bezeichneten Fällen kann das Verfahren vor dem Ständigen Internationalen Gerichtshof auf Grund besonderer Vereinbarung der Parteien durch ein Verfahren vor einem besonderen Schiedsgericht ersetzt werden

ART 4 Bestehen zwischen den beiden Parteien Meinungsverschiedenheiten darüber ob eine Streitigkeit zu den im Artikel 2 bezeichneten Arten gehört so wird über diese Vorfrage von dem Ständigen Internationalen Gerichtshof oder, falls die Parteien ein besonderes Schiedsgericht vereinbaren, von dem Schiedsgericht entschieden

ART 5 Die vertragschliessenden Teile setzen in jedem Einzelfalle, der der Entscheidung des Ständigen Internationalen Gerichtshofs im Haag oder eines besonderen Schiedsgerichts zu unterbreiten ist eine besondere Schiedsordnung fest, worin der Streitgegenstand sowie die anderen zwischen ihnen vereinbarten Bedingungen angegeben werden Im Falle der Vereinbarung eines besonderen Schiedsgerichts werden die vertragschliessenden Teile hierbei soweit als möglich die Bestimmungen des Haager Abkommens zur friedlichen Friedlung internationaler Streitfälle vom 18. Oktober 1907 berücksichtigen

Die Festsetzung der Schiedsordnung erfolgt durch Protokoll oder durch Notenaustausch Für die Auslegung der Schiedsordnung ist der Ständige Internationale Gerichtshof oder das besondere Schiedsgericht zuständig

Kommt die Schiedsordnung nicht binnen zwei Monaten zustande, nachdem einer Partei der Antrag der anderen Partei auf Einleitung eines Verfahrens vor dem Ständigen Internationalen Gerichtshof oder einem besonderen Schieds-

ART 3 In the cases mentioned in Article 2 a procedure before a special arbitral tribunal may, by special agreement between the Parties, be substituted for the procedure before the Permanent Court of International Justice

ART 4 Should the Parties differ on the question whether a dispute comes under any of the categories mentioned in Article 2, this preliminary question shall be settled by the Permanent Court of International Justice, or if the Parties agree to set up a special arbitral tribunal, by that tribunal

ART 5 In each individual case which is to be submitted to the decision of the Hague Permanent Court of International Justice or of a special tribunal, the Contracting Parties shall conclude a special arbitral agreement mentioning the subject of the dispute and the other conditions upon which the Parties have agreed If the Contracting Parties agree to set up a special arbitral tribunal, they shall as far as possible comply with the provisions of the Hague Convention of October 18 1907 for the Pacific Settlement of International Disputes

The arbitral agreement shall be established by a protocol or by an exchange of notes The Permanent Court of International Justice or the special arbitral tribunal shall be competent to interpret the arbitral agreement

If the arbitral agreement is not concluded within two months after one of the Parties has notified the other Party of its intention to institute proceedings before the Permanent Court of International Justice or a special arbitral tribunal, either Party may bring the matter before the Permanent Court of In-

gerichte zugegangen ist, so kann jede Partei auf dem Wege eines einfachen Begehrens den Ständigen Internationalen Gerichtshof gemäss dessen Statut anrufen

ART. 6 Alle Streitigkeiten, die nicht nach den vorhergehenden Artikeln dieses Vertrags der Entscheidung des Ständigen Internationalen Gerichtshofs oder eines besonderen Schiedsgerichts unterbreitet werden, sind auf Verlangen einer Partei im Vergleichsverfahren zu behandeln

Durch Vereinbarung der Parteien kann auch jede der im Artikel 2 bezeichneten Streitigkeiten vor dem Verfahren vor dem Ständigen Internationalen Gerichtshof oder einem besonderen Schiedsgerichte dem Vergleichsverfahren unterworfen werden

ART 7 Für das Vergleichsverfahren wird ein Ständiger Vergleichsrat gebildet

Der Ständige Vergleichsrat besteht aus fünf Mitgliedern. Die vertragschliessenden Teile ernennen, jeder für sich, nach freier Wahl je ein Mitglied und berufen die drei übrigen Mitglieder im gemeinsamen Einverständnis. Diese drei Mitglieder sollen nicht Angehörige der vertragschliessenden Staaten sein, noch sollen sie auf deren Gebiet ihren Wohnsitz haben oder in deren Dienst stehen oder gestanden haben. Aus ihrer Mitte wird der Vorsitzende durch die vertragschliessenden Teile gemeinsam bezeichnet

Jedem vertragschliessenden Teile steht das Recht zu, jederzeit, sofern nicht ein Verfahren im Gange oder von einer Partei beantragt worden ist, das von ihm ernannte Mitglied abzu berufen und dessen Nachfolger zu bestimmen. Unter den gleichen Vorausset-

ternational Justice by a simple application in accordance with the Statute of the Court.

ART 6 All disputes which are not submitted to the decision of the Permanent Court of International Justice or a special arbitral tribunal under the foregoing Articles of the present Treaty shall, at the request of one of the Parties, be the subject of a procedure of conciliation

The Contracting Parties may also agree to submit to the procedure of conciliation any of the disputes mentioned in Article 2 before proceedings are opened before the Permanent Court of International Justice or a special arbitral tribunal

ART 7 A Permanent Board of Conciliation shall be constituted for the procedure of conciliation

The Permanent Board of Conciliation shall consist of five members. The Contracting Parties shall each appoint one member of their own choice, and shall nominate the other three members jointly. These three members shall not be nationals of the Contracting States, nor shall they be domiciled in their territory or be employed or have been employed in their service. The Contracting Parties shall jointly elect the Chairman from among these three members

Either of the Contracting Parties shall have the right at any time, unless a procedure is pending or has been proposed by one of the Parties, to recall the member appointed by it and to appoint a successor. Similarly either Contracting Party shall also be entitled to withdraw its consent to the appointment of any of the three

zungen steht es jedem der vertragschliessenden Teile auch frei, die Zustimmung zur Berufung jedes der drei gemeinsam berufenen Mitglieder zurückzuziehen. In diesem Falle muss unverzüglich zur gemeinsamen Berufung eines neuen Mitglieds geschritten werden.

Innerhalb von vierzehn Tagen nach dem Tage, an welchem einer der beiden vertragschliessenden Teile eine Streitfrage vor den Ständigen Vergleichsrat gebracht hat, kann jede der Parteien für die Behandlung dieser Streitfrage das von ihr bezeichnete Mitglied des Ständigen Vergleichsrats durch eine Persönlichkeit ersetzen, die in der Angelegenheit besondere Sachkunde besitzt. Die Partei, die von diesem Rechte Gebrauch macht, teilt das unverzüglich der andern Partei mit, der es alsdann fristeht, innerhalb von vierzehn Tagen nach dem Tage, an dem ihr die Mitteilung zugegangen ist, das gleiche zu tun.

Der Ständige Vergleichsrat wird im Laufe von sechs Monaten nach Austausch der Ratifikationsurkunden dieses Vertrags gebildet. Ausscheidende Mitglieder werden gemäss dem für die erstmalige Wahl massgebenden Verfahren so rasch als möglich ersetzt.

Wenn die Berufung der gemeinsam zu berufenden Mitglieder nicht innerhalb von sechs Monaten nach dem Austausch der Ratifikationsurkunden oder, im Falle der Ergänzung des Ständigen Vergleichsrats, nicht innerhalb von drei Monaten nach Ausscheiden eines Mitglieds stattgefunden hat, so wird, in Ermangelung anderweitiger Vereinbarung, der Schweizerische Bundespräsident gebeten werden, die erforderlichen Ernennungen vorzunehmen.

members nominated jointly. In this case the Contracting Parties shall jointly appoint a new member without delay.

Within a fortnight of the date on which one of the two Contracting Parties has submitted a dispute to the Permanent Board of Conciliation, either Party may, for the examination of such dispute, substitute for the member of the Permanent Board of Conciliation appointed by itself some person having special competence in the question at issue. The Party making use of this right shall immediately notify the other Party, which, in this case, may exercise the same right within a fortnight of receiving such notification.

The Permanent Board of Conciliation shall be constituted in the course of the six months following the exchange of the instruments of ratification of the present Treaty. Retiring members shall be replaced as soon as possible in the manner laid down for the first election.

If the nomination of the members to be appointed jointly has not taken place within the six months following the exchange of the instruments of ratification, or, in the case of a vacancy on the Permanent Board of Conciliation, within three months of the date on which the vacancy occurs, the President of the Swiss Confederation shall, in the absence of any agreement to the contrary, be requested to make the necessary appointments.

**ART 8** Der Standige Vergleichsrat tritt in Wirksamkeit, sobald er von einer Partei angerufen wird. Diese richtet ihr Begehren gleichzeitig an den Vorsitzenden des Standigen Vergleichsrats und an die andere Partei. Der Vorsitzende hat den Standigen Vergleichsrat in kürzester Frist einzuberufen.

Die vertragschliessenden Teile verpflichten sich, in allen Fällen und in jeder Hinsicht die Arbeiten des Standigen Vergleichsrats zu fordern und ihm insbesondere durch die zuständigen Behörden jede Rechtshilfe zu gewähren. Sie werden alle erforderlichen Massnahmen treffen, damit dem Standigen Vergleichsrat die Möglichkeit gewahrt wird, auf ihrem Gebiete Zeugen und Sachverständige zu vernehmen und Augenschein einzunehmen. Der Standige Vergleichsrat kann die Beweise entweder in vollständiger Besetzung oder durch ein oder mehrere der gemeinsam berufenen Mitglieder erheben.

**ART 9** Der Standige Vergleichsrat bestimmt seinen Sitz. Er kann ihn nach freiem Ermessen verlegen.

Der Standige Vergleichsrat bildet, notigenfalls eine Kanzlei. Soweit er in die Kanzlei Angehörige der Parteien beruft, hat er dabei die Parteien gleichmässig zu berücksichtigen.

**ART 10** Der Standige Vergleichsrat ist beschlussfähig, wenn alle Mitglieder ordnungsmässig geladen und mindestens die gemeinsam berufenen Mitglieder anwesend sind.

Der Standige Vergleichsrat trifft seine Entschliessungen mit einfacher Stimmenmehrheit. Im Falle der Stimmengleichheit hat der Vorsitzende eine doppelte Stimme.

**ART. 8** The Permanent Board of Conciliation shall enter upon its duties as soon as a dispute has been referred to it by either of the Parties. Such Party shall communicate its request simultaneously to the Chairman of the Permanent Board of Conciliation and to the other Party. The Chairman shall summon the Permanent Board of Conciliation to meet at the earliest possible moment.

The Contracting Parties undertake in all cases and in all respects to help the Permanent Board of Conciliation in its work and in particular to grant it every legal aid through the competent authorities. They shall take all necessary steps to enable the Permanent Board of Conciliation to examine witnesses and experts and to carry out investigations in their respective territories. The Permanent Board of Conciliation may take evidence either *in pleno* or through one or more of the members appointed jointly.

**ART 9** The Permanent Board of Conciliation shall determine its own meeting place and shall be at liberty to transfer it.

The Permanent Board of Conciliation shall, if need be, establish a registry. If it appoints nationals of the Contracting Parties to positions in this office, it shall treat both Parties on an equal footing.

**ART 10** The deliberations of the Permanent Board of Conciliation shall be valid if all the members have been duly convened and if at least the members nominated jointly are present.

The decisions of the Permanent Board of Conciliation shall be taken by a majority vote. If the votes are equally divided, the Chairman shall have a casting vote.

ART. 11. Dem Ständigen Vergleichsrat liegt ob, einen Bericht zu erstatten, der den Sachverhalt feststellt und, es sei denn, dass dies nach den besonderen Umständen des Falles nicht angebracht erscheint, Vorschläge für die Beilegung der Streitigkeit enthält.

Der Bericht ist innerhalb von sechs Monaten nach dem Tage zu erstatten, an dem die Streitigkeit dem Ständigen Vergleichsrat unterbreitet wurde, es sei denn, dass die Parteien diese Frist im gemeinsamen Einverständnis verlängern oder vor dem Zusammentritt des Ständigen Vergleichsrats verkürzen. Der Bericht soll in drei Ausfertigungen verfasst werden, von denen je eine jeder Partei ausgehändigt, die dritte vom Ständigen Vergleichsrat aufbewahrt wird.

Der Bericht hat weder in bezug auf die Tatsachen noch in bezug auf die rechtlichen Ausführungen die Bedeutung einer endgültig bindenden Entscheidung. Bei Mitteilung des Berichts kann der Ständige Vergleichsrat den Parteien anheimstellen, sich innerhalb einer im Bericht festzusetzenden Frist darüber zu erklären, ob und inwieweit sie die Feststellungen des Berichts anerkennen und dessen Vorschläge annehmen.

Es ist Sache der Parteien, im gemeinsamen Einverständnis zu bestimmen, ob der Bericht unverzüglich veröffentlicht werden soll oder nicht. Kommt es jedoch nicht zu einem solchen Einverständnis, so kann der Ständige Vergleichsrat seinerseits aus besonderen Gründen die sofortige Veröffentlichung des Berichts veranlassen.

ART. 12. Jede Partei trägt die Vergütung für die Tätigkeit des von ihr ernannten Mitglieds des Ständigen Vergleichsrats sowie die

ART. 11. The Permanent Board of Conciliation shall draw up a report setting out the facts of the case and, unless the special circumstances of the case make it impossible, containing proposals for the settlement of the dispute.

The report shall be submitted within six months from the date on which the dispute was laid before the Permanent Board of Conciliation, unless the Parties jointly agree to extend this time-limit or decide, before the Permanent Board of Conciliation meets, to shorten it. The report shall be drawn up in three copies; each Party shall receive one and the third shall be preserved in the archives of the Permanent Board of Conciliation.

The report shall not, as regards either statements of fact or legal considerations, be in the nature of a final judgment binding upon the Parties. In communicating the report to the Parties the Permanent Board of Conciliation may invite them to state, within a time-limit to be fixed by the report, whether and how far they recognise the correctness of the findings in the report and accept the proposals which it contains.

The Parties shall jointly decide whether the report shall be published immediately or not. If they fail to agree on this point, the Permanent Board of Conciliation may have the report published immediately, should there be special reasons for so doing.

ART. 12. Each Party shall bear the cost of the remuneration due to the member of the Permanent Board of Conciliation appointed

Halbte der Vergütung für die Tätigkeit der gemeinsam berufenen Mitglieder

Jede Partei trägt die von ihr veranlassten Kosten des Verfahrens sowie die Hälfte der Kosten, die von dem Ständigen Vergleichsrat als gemeinsame bezeichnet werden

ART 13 Soweit nicht in den vorstehenden Artikeln ein anderes bestimmt ist, finden auf das Vergleichsverfahren die Bestimmungen des Haager Abkommens zur friedlichen Erledigung internationaler Streitfälle vom 18. Oktober 1907 sinngemäße Anwendung. Im Zweifel entscheidet der Ständige Vergleichsrat selbst.

ART 14 Die vertragschließenden Teile verpflichten sich, während der Dauer des Verfahrens vor dem Ständigen Internationalen Gerichtshof im Haag, dem besonderen Schiedsgericht oder dem Ständigen Vergleichsrat nach Möglichkeit jede Massnahme zu vermeiden, die auf die Ausführung der zu treffenden Entscheidung oder auf die Annahme der Vorschläge des Ständigen Vergleichsrats nachteilig zurückwirken könnte.

ART 15 Der gegenwärtige Vertrag soll sobald als möglich ratifiziert werden. Die Ratifikationsurkunden sollen in Kovno ausgetauscht werden.

Der Vertrag tritt einen Monat nach dem Austausch der Ratifikationsurkunden in Kraft.

Der Vertrag gilt für die Dauer von zehn Jahren. Wird er nicht sechs Monate vor Ablauf dieses Zeitraums gekündigt, so bleibt er für weitere fünf Jahre in Kraft. Das gleiche gilt, wenn der Vertrag

by itself, and half the cost of the remuneration of the members appointed jointly.

Each Party shall bear the costs which it has itself incurred in connection with the proceedings and half of the costs which the Permanent Board of Conciliation declares to be common to both Parties.

ART 13 Subject to any provisions to the contrary laid down in the preceding Articles, the procedure of conciliation shall be governed *mutatis mutandis* by the provisions of the Hague Convention of October 18, 1907 for the Pacific Settlement of International Disputes. In cases of doubt the decision shall be taken by the Permanent Board of Conciliation itself.

ART 14 The Contracting Parties undertake as far as possible to avoid during the procedure before the Hague Permanent Court of International Justice, the special arbitral tribunal or the Permanent Board of Conciliation any measure which might prejudice the execution of the decision agreed upon or the acceptance of the proposals submitted by the Permanent Board of Conciliation.

ART 15 The present Treaty shall be ratified as soon as possible and the instruments of ratification shall be exchanged at Kovno.

The Treaty shall come into force one month after the exchange of the instruments of ratification.

The Treaty shall be valid for a period of ten years. If not denounced six months before the expiration of this period it shall remain in force for a further period of five years and shall be similarly renewed thereafter unless de-



nicht mit der bezeichneten Frist gekündigt wird, für die spätere Zeit

Verfahren vor dem Ständigen Internationalen Gerichtshof im Haag oder einem besonderen Schiedsgericht oder ein Vergleichsverfahren, das bei Ablauf des gegenwertigen Vertrags schwebt nimmt seinen Lauf nach den Bestimmungen dieses Vertrags oder eines anderen Abkommens, das von den vertragschliessenden Teilen an dessen Stelle vereinbart wird

Zu Urkund dessen haben die Bevollmächtigten den gegenwertigen Vertrag unterzeichnet

Ausgefertigt in doppelter Urschrift in deutscher und litauischer Sprache

in Berlin am 29. Januar 1928

Stresemann

Prof. A. Voldemaras

nounced within the prescribed period

Any procedure before the Hague Permanent Court of International Justice or a special arbitral tribunal or any procedure of conciliation which is pending at the time when the present Treaty expires shall be continued in accordance with the terms of the present Treaty or of any other Convention which the Contracting Parties may agree to substitute therefor

In witness whereof the Plenipotentiaries have signed the present Treaty

Done at Berlin, in two original texts, one in German and the other in Lithuanian, on January 29, 1928

Stresemann

Prof. A. Voldemaras

#### FINAL PROTOCOL

1 Die vertragschliessenden Teile gehen von der Ansicht aus, dass die einzelnen Bestimmungen des Vertrags im Zweifel zugunsten der Anwendung des Grundsatzes der gerichtlichen oder schiedsgerichtlichen Erledigung von Streitigkeiten auszulegen sind

2 Die vertragschliessenden Teile erklären, dass der Vertrag auch dann Anwendung findet, wenn eine Streitigkeit in Ereignissen ihren Ursprung hat, die zeitlich vor seinem Abschluss liegen. Artikel 1 des am 31. Mai 1923 unterzeichneten Vertrags zwischen Deutschland und Litauen über die Erledigung der mit den Ereignissen des Weltkriegs zusammenhängenden Fragen bleibt unberührt

3 Im Hinblick auf die Bestimmungen des gegenwertigen Vertrags treten der Artikel 4 des

1 The Contracting Parties are agreed that in doubtful cases the terms of the present Treaty shall be interpreted in favor of the application of the principle of the settlement of disputes by judicial means or arbitration

2 The Contracting Parties declare that the Treaty shall also apply to disputes arising out of events which occurred prior to its conclusion. Article 1 of the Treaty between Germany and Lithuania signed on May 31, 1923 regarding the settlement of questions connected with the World War, shall remain unchanged

3 In view of the provisions of the present Treaty, Article 4 of the above mentioned Treaty of May

vor erwähnten Vertrags vom 31. Mai 1923 und der Artikel 32 des Handelsvertrags zwischen Deutschland und Litauen vom 1. Juni 1923 ausser Anwendung

4 Dieser Vertrag findet zwischen den vertragschliessenden Teilen auch dann Anwendung, wenn andere Mächte gleichfalls an der Streitigkeit beteiligt sind

Soweit es jedoch möglich ist, die Streitigkeit zusammen mit anderen beteiligten Mächten einem einheitlichen gerichtlichen, schiedsgerichtlichen oder Vergleichsverfahren zu unterwerfen, werden die vertragschliessenden Teile Vereinbarungen in diesem Sinne treffen

Berlin, den 29. Januar 1928

Stresemann

Prof. A. Voldemaras

31, 1923, and Article 32 of the Treaty of Commerce between Germany and Lithuania dated June 1, 1923, shall no longer be applicable

4 The present Treaty shall apply as between the Contracting Parties, even if other Powers are concerned in the dispute

Nevertheless, the Contracting Parties shall if possible, conclude agreements with any other Powers concerned with a view to submitting the dispute to one and the same judicial, arbitral, or conciliation procedure

Berlin January 29, 1928

Stresemann

Prof. A. Voldemaras

#### PERMANENT COMMISSION OF CONCILIATION

No information available

### No. 95

#### FRANCE-UNITED STATES OF AMERICA TREATY OF INVESTIGATION AND ARBITRATION

Signed at Washington February 6, 1928 ratifications exchanged April 22, 1929

Original text<sup>1</sup> from United States of America *Treaty Series* No. 785

The President of the United States of America and the President of the French Republic

Determined to prevent so far as in their power lies any interruption in the peaceful relations that have happily existed between the two nations for more than a century

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them,

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations but also to hasten the time when the perfection of international arrangements for

<sup>1</sup> The French text is also authentic. For composition of Commission of Investigation see Annex I (I)

the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the Powers of the world

Having in mind the treaty signed at Washington on September 15, 1914, to facilitate the settlement of disputes between the United States of America and France,

Have decided to conclude a new treaty of arbitration enlarging the scope of the arbitration convention signed at Washington on February 10, 1908, which expires by limitation on February 27, 1928, and promoting the cause of arbitration and for that purpose they have appointed as their respective Plenipotentiaries

The President of the United States of America

Mr Robert E. Olds, Acting Secretary of State, and

The President of the French Republic

His Excellency Mr Paul Claudel, Ambassador Extraordinary and Plenipotentiary of the French Republic to the United States, who, having communicated to one another their full powers found in good and due form have agreed upon the following articles

ARTICLE I Any disputes arising between the Government of the United States of America and the Government of the French Republic of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the High Contracting Parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report, as prescribed in the treaty signed at Washington, September 15 1914 to the Permanent International Commission constituted pursuant thereto

ARTICLE II All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise which it has not been possible to adjust by diplomacy which have not been adjusted as a result of reference to the above mentioned Permanent International Commission, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18 1907 or to some other competent tribunal as shall be decided in each case by special agreement which special agreement shall provide for the organization of such tribunal if necessary define its powers, state the question or questions at issue, and settle the terms of reference

The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof and on the part of France in accordance with the constitutional laws of France

ARTICLE III The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(a) is within the domestic jurisdiction of either of the High Contracting Parties,

(b) involves the interests of third Parties,

(c) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine,

(d) depends upon or involves the observance of the obligations of France in accordance with the covenant of the League of Nations.

ART. IV. The present Treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by the President of the French Republic in accordance with the constitutional laws of the French Republic.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith thereof the respective Plenipotentiaries have signed this treaty in duplicate in the English and French languages, both texts having equal force, and hereunto affix their seals.

Done in Washington the sixth day of February in the year of our Lord one thousand nine hundred and twenty-eight.

Robert E. Olds  
Caudel

#### EXCHANGE OF NOTES

##### *The Secretary of State to the French Ambassador*

Department of State,  
Washington, March 1, 1928.

Excellency:

As you are aware it was not the intention or desire of the Government of the United States that the new Arbitration Treaty, which was proposed to your Government last December and signed on February 6, 1928, should be held to affect in any way the provisions of the Treaty for the Advancement of Peace signed by France and the United States on September 15, 1914, and I have understood that the Government of the French Republic was in accord with the Government of the United States on this point.

In order to prevent the possibility of any future misunderstanding, however, I desire formally to state that in the opinion of the Government of the United States the provisions of the Arbitration Treaty signed February 6, 1928, do not in the slightest degree affect or modify the provisions of the Treaty signed September 15, 1914. I should be glad to receive a note from you confirming my understanding that your Government's interpretation of the Treaty signed February 6, 1928, is identical with that of the Government of the United States as expressed above.

Accept, Excellency, the renewed assurance of my highest consideration.

Frank B. Kellogg

*The French Ambassador to the Secretary of State*

(Translation)

Ambassade de la République Française aux États-Unis  
Washington, le 5 mars, 1928

Embassy of the French Republic  
to the United States,  
Washington, March 5, 1928

Monsieur le Secrétaire d'Etat,

Par lettre en date du 1<sup>er</sup> de ce mois, Votre Excellence a bien voulu me faire savoir que, dans l'esprit du Gouvernement fédéral, "les dispositions du traité d'arbitrage signé le 6 février 1928 n'affectent et ne modifient à aucun degré les dispositions du traité signé le 15 septembre 1914." Elle a ajouté qu'Elle serait heureuse de recevoir de moi une lettre confirmant que mon Gouvernement partage ce point de vue.

Mon Gouvernement, auquel je n'avais pas manqué de transmettre le texte même de la note de Votre Excellence, me prie de Lui assurer que son interprétation du Traité signé le 6 février 1928 est identique à celle du Gouvernement des États-Unis, telle qu'elle est exposée ci-dessus.

Mon Gouvernement estime que notre récent traité d'arbitrage non seulement laisse intact le traité de 1914 mais en prévoit même l'application.

Veuillez agréer, Monsieur le Secrétaire d'Etat, les assurances de ma haute considération

Claudel

Mr Secretary of State.

By a note dated the first of this month Your Excellency has been good enough to inform me that in the opinion of the Federal Government "the provisions of the treaty of arbitration signed February 6, 1928, do not in the slightest degree affect or modify the provisions of the treaty signed September 15, 1914." You added that you would be glad to receive from me a note confirming that my Government shares this point of view.

My Government, to which I did not fail to transmit the text of Your Excellency's note, has requested me to assure you that its interpretation of the treaty signed February 6, 1928, is identical with that of the Government of the United States as expressed above.

My Government is of the opinion that our recent arbitration treaty not only leaves the 1914 treaty unchanged but even envisages its application.

Please accept, Mr Secretary of State, the assurances of my high consideration

Claudel

## No. 96

FRANCE-SWEDEN: TREATY OF CONCILIATION,  
ARBITRATION, AND COMPULSORY  
ADJUDICATION

Signed at Paris March 3, 1928; ratifications exchanged September 3, 1929.

Original text from Sweden, *Bihang till riksdagens protokoll*, 1928, 1 saml., 204 h:ft (Nr 239).

(Translation)

Sa Majesté le Roi de Suède et le Président de la République française,

S'inspirant des traditionnelles relations d'amitié qui unissent leurs nations respectives,

Considérant la Convention d'arbitrage conclue entre la Suède et la France le 9 juillet 1904 prorogée par l'arrangement du 27 octobre 1909,

Également désireux d'y substituer des dispositions permettant d'assurer dorénavant, conformément au droit des gens moderne, le règlement pacifique de tous les différends et conflits, de quelque nature qu'ils soient, qui viendraient à diviser les deux pays,

Ont résolu de conclure un Traité à cet effet, et ont nommé pour leurs Plénipotentiaires respectifs, savoir:

Sa Majesté le Roi de Suède:

M. le Comte Ehrensvärd, Son Envoyé Extraordinaire et Ministre Plénipotentiaire près le Président de la République française;

Le Président de la République Française:

M. Aristide Briand, Député, Ministre des Affaires Étrangères de la République française;

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des dispositions suivantes:

His Majesty the King of Sweden and the President of the French Republic,

Paying heed to the traditionally friendly relations that unite their respective peoples,

Having regard to the Arbitration Convention concluded between Sweden and France on July 9, 1904, prolonged by the Arrangement of October 27, 1909,

And being equally desirous of substituting for that Convention provisions that will make it possible to insure henceforth, in accordance with modern international law, the peaceful settlement of all disputes and conflicts, of whatever nature they may be, that may arise to divide the two countries,

Have resolved to conclude a Treaty for that purpose, and have appointed for their respective Plenipotentiaries, that is to say:

His Majesty the King of Sweden:

Count Ehrensvärd, His Envoy Extraordinary and Minister Plenipotentiary to the President of the French Republic;

The President of the French Republic:

M. Aristide Briand, Deputy, Minister of Foreign Affairs of the French Republic;

Who, having communicated to each other their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1<sup>er</sup>. Tous différends entre le Gouvernement de Sa Majesté le Roi de Suède et le Gouvernement de la République française, de quelque nature qu'ils soient et qui n'auraient pu être résolus par les procédés diplomatiques ordinaires, seront, avant toute procédure devant la Cour permanente de Justice internationale ou avant tout recours à l'arbitrage, soumis à fin de conciliation à une Commission internationale permanente, dite Commission permanente de conciliation, constituée conformément au présent Traité.

Toutefois, les litiges visés à l'article 15 du présent Traité ne seront portés devant la Commission de conciliation que si les deux Gouvernements en conviennent. Dans tous les autres cas, les Hautes Parties contractantes auront d'ailleurs toujours la liberté de convenir qu'un litige déterminé sera réglé directement sans recours au préliminaire de conciliation ci-dessus prévu.

Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres Conventions en vigueur entre la Suède et la France seront réglées conformément aux dispositions de ces Conventions.

ART. 2. S'il s'agit d'un différend qui, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux de celle-ci, y compris les Tribunaux administratifs, le différend ne sera soumis à la procédure prévue par le présent Traité qu'après jugement passé en force de chose jugée rendu dans des délais raisonnables par l'autorité judiciaire nationale compétente.

ART. 3. La Commission permanente de conciliation prévue à

ARTICLE 1. All disputes between the Government of His Majesty the King of Sweden and the Government of the French Republic, of whatever nature they may be, which it has not proved possible to settle by the ordinary diplomatic methods, shall, prior to any proceedings before the Permanent Court of International Justice or any resort to arbitration, be submitted, with a view to effecting an amicable settlement, to a permanent international commission styled the Permanent Conciliation Commission, constituted as provided in the present Treaty.

Nevertheless, the disputes referred to in Article 15 of the present Treaty shall not be brought before the Conciliation Commission unless the two Governments so agree. In all other cases, moreover, the High Contracting Parties shall always be at liberty to agree that any particular dispute shall be settled directly, without resort to the preliminary conciliation procedure provided for above.

Disputes for the settlement of which a special procedure is laid down in other Conventions in force between Sweden and France shall be dealt with in accordance with the terms of such Conventions.

ART. 2. In the case of a dispute which, according to the municipal law of one of the Parties, falls within the jurisdiction of the national courts of that Party, including the administrative courts, the dispute shall not be submitted to the procedure provided for in the present Treaty until a judgment with final effect has been delivered within a reasonable time by the competent national judicial authority.

ART. 3. The Permanent Conciliation Commission provided for

l'article premier sera composée de cinq membres, qui seront désignés comme il suit, savoir: les Hautes Parties contractantes nommeront chacune un Commissaire choisi parmi leurs nationaux respectifs et désigneront, d'un commun accord, les trois autres Commissaires parmi les ressortissants de tierces Puissances; ces trois Commissaires devront être de nationalités différentes et, parmi eux, les Gouvernements suédois et français désigneront le Président de la Commission.

Les Commissaires sont nommés pour trois ans; leur mandat est renouvelable. Ils resteront en fonctions jusqu'à leur remplacement, et, dans tous les cas, jusqu'à l'achèvement de leurs travaux en cours au moment de l'expiration de leur mandat.

Il sera pourvu, dans le plus bref délai, aux vacances qui viendraient à se produire, par suite de décès, de démission ou de quelqu'autre empêchement, en suivant le mode fixé pour les nominations.

ART. 4. La Commission permanente de conciliation sera constituée dans les six mois qui suivront l'entrée en vigueur du présent Traité.

Si la nomination des Commissaires à désigner en commun n'intervenait pas dans ledit délai, ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, le Président de la Confédération suisse sera, à défaut d'autre entente, prié de procéder aux désignations nécessaires.

ART. 5. La Commission permanente de conciliation sera saisie par voie de requête adressée au Président par les deux Parties agissant d'un commun accord ou, à défaut, par l'une ou l'autre des Parties.

in Article 1 shall be composed of five members, who shall be appointed as follows, that is to say: each of the High Contracting Parties shall appoint a Commissioner chosen from among its nationals, and the two Parties jointly shall select the other three Commissioners from among the nationals of third Powers; these three Commissioners must be of different nationalities, and one of them shall be appointed by the Swedish and French Governments to be President of the Commission.

The Commissioners shall be appointed for three years, and their appointment shall be renewable. They shall remain in office until their places have been filled, and, in any case, until any proceedings in progress at the expiration of their term have been completed.

Any vacancies that may arise through death or resignation, or through any other cause that may prevent a Commissioner from acting, shall be filled as quickly as possible by the method followed in making appointments.

ART. 4. The Permanent Conciliation Commission shall be set up within six months of the entry into force of the present Treaty.

Should the Commissioners to be appointed jointly not be appointed within that period, or, in the case of a vacancy, within three months of the occurrence of the vacancy, the President of the Swiss Confederation shall, unless it is agreed otherwise, be asked to make the necessary selections.

ART. 5. A dispute shall be laid before the Permanent Conciliation Commission by a request addressed to the President by the two Parties acting in concert or, in the absence of such agreement, by either Party.



La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à un conciliation.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à la Partie adverse.

ART. 6. Dans un délai de 15 jours à partir de la date où le Gouvernement suédois ou le Gouvernement français aurait porté une contestation devant la Commission permanente de conciliation, chacune des Parties pourra, pour l'examen de cette contestation, remplacer son commissaire par une personne possédant une compétence spéciale dans la matière.

La Partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie; celle-ci aura, dans ce cas, la faculté d'agir de même, dans un délai de 15 jours à partir de la date où la notification lui sera parvenue.

ART. 7. La Commission permanente de conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, proposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

A la fin de ses travaux, la Commission dressera un procès-verbal constatant, suivant les cas, soit que les Parties se sont arrangées et, s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la Commission devront, à moins que les Parties en conviennent différemment, être ter-

The request shall contain a brief statement of the subject of the dispute, followed by an invitation to the Commission to take all steps calculated to lead to an amicable settlement.

If the request is made by only one of the Parties, that Party shall immediately notify the other Party thereof.

ART. 6. Within the fortnight following the date on which the Swedish Government or the French Government has submitted a dispute to the Permanent Conciliation Commission, either of the Parties may, for the examination of that case, replace its Commissioner by a person possessing special qualifications in the matter.

The Party availing itself of this right shall immediately notify the other Party; in this case, the latter shall have the option of taking like action within a fortnight after receiving the notification.

ART. 7. The task of the Permanent Conciliation Commission shall be to elucidate the questions in dispute, to collect with that object all useful information by inquiry or otherwise, and to endeavor to bring the Parties to an agreement. It may, after examining the case, inform the Parties of the terms of settlement which seem to it suitable, and lay down a period within which they are to reach their decision.

At the close of its proceedings, the Commission shall draw up a record showing, as the case may be, either that the Parties have reached an agreement, and, if necessary, the terms of such agreement, or that it has proved impossible to effect a settlement.

Unless the Parties otherwise agree, the proceedings of the Com

minés dans le délai de six mois à compter du jour où la Commission aura été saisie du litige.

ART. 8. A moins de stipulation spéciale contraire, la Commission permanente de conciliation réglera elle-même sa procédure qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la Commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du Titre III (Commissions internationales d'enquête) de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 9. La Commission permanente de conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son Président.

ART. 10. Les travaux de la Commission permanente de conciliation ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties.

ART. 11. Les Parties seront représentées auprès de la Commission permanente de conciliation par des agents ayant mission de servir d'intermédiaires entre elles et la Commission; elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraîtrait utile.

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement.

mission shall be completed within six months from the day on which the dispute was laid before the Commission.

ART. 8. Unless any special stipulation is made to the contrary, the Permanent Conciliation Commission shall decide upon its own procedure, which must in all cases allow of both Parties being heard. In regard to inquiries, the Commission shall, unless it unanimously decides otherwise, adhere to the provisions of Part III (International Commissions of Inquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 9. Unless the Parties otherwise agree, the Permanent Conciliation Commission shall meet at the place selected by its President.

ART. 10. The proceedings of the Permanent Conciliation Commission shall not take place in public unless the Commission, with the consent of the Parties, so decides.

ART. 11. The Parties shall be represented before the Permanent Conciliation Commission by agents whose duty it shall be to act as intermediaries between them and the Commission. They may, in addition, obtain the assistance of counsel and experts appointed by them for that purpose, and they may request that any persons whose testimony may seem to them of value should be heard.

The Commission for its part shall be entitled to ask for oral explanations from the agents, counsel, and experts of the two Parties, and from any persons whom it may think useful to summon with the consent of their respective Governments.

ART. 12. Sauf disposition contraire du présent Traité, les décisions de la Commission permanente de conciliation seront prises à la majorité des voix.

La Commission ne pourra prendre des décisions portant sur le fond du différend que si tous les membres ont été dûment convoqués et si le Président et deux membres au moins sont présents. Dans le cas où trois membres seulement et le Président seraient présents, la voix du Président sera prépondérante.

ART. 13. Les Hautes Parties contractantes s'engagent à faciliter les travaux de la Commission permanente de conciliation et, en particulier, à lui fournir dans la plus large mesure possible tous documents et informations utiles, ainsi qu'à user des moyens dont elles disposent pour lui permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

ART. 14. Pendant la durée des travaux de la Commission permanente de conciliation, chacun des Commissaires recevra une indemnité dont le montant sera arrêté d'un commun accord entre les Gouvernements suédois et français, qui en supporteront chacun une part égale.

Chaque Gouvernement supportera ses propres frais et une part égale des frais communs de la Commission.

ART. 15. Les litiges ayant pour objet un droit allégué par une des Parties et contesté par l'autre, notamment les litiges mentionnés dans l'article 13 du Pacte de la Société des Nations, seront, à défaut d'un arrangement portant le litige devant la Commission perma-

ART. 12. Unless otherwise provided in the present Treaty, the decisions of the Permanent Conciliation Commission shall be taken by a majority vote.

The Commission may not take decisions relating to the actual questions at issue unless all the members have been duly given notice and unless the President and at least two other members are present. Should only three other members and the President be present, the President shall have a casting vote.

ART. 13. The High Contracting Parties undertake to facilitate the labors of the Permanent Conciliation Commission, and in particular to supply it to the greatest possible extent with all relevant documents and information, and also to use the means at their disposal to enable the Commission to summon and hear witnesses or experts in their territory and according to their law, and to visit the localities in question.

ART. 14. During the proceedings of the Permanent Conciliation Commission, each of the Commissioners shall receive an allowance to be fixed by agreement between the Swedish and French Governments and borne by them in equal shares.

Each Government shall be responsible for its own expenses and half the common expenses of the Commission.

ART. 15. Disputes relating to a right asserted by one of the Parties and contested by the other, and especially the disputes mentioned in Article 13 of the Covenant of the League of Nations, shall, failing any arrangement to lay the dispute before the Permanent Conciliation

nente de conciliation et, dans le cas d'un semblable arrangement, à défaut de conciliation, soumis par voie de compromis soit à la Cour permanente de Justice internationale dans les conditions et suivant la procédure prévues par son statut, soit à un tribunal arbitral dans les conditions et suivant la procédure prévues par la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

A défaut d'accord entre les Parties sur le compromis et après un préavis d'un mois, l'une ou l'autre d'entre elles aura la faculté de porter directement par voie de requête la contestation devant la Cour permanente de Justice internationale.

ART. 16. Les différends autres que les litiges visés à l'alinéa 1er de l'article 15 seront, à défaut de conciliation, soumis à un Tribunal ayant le pouvoir de statuer *ex aequo et bono*.

Ce Tribunal sera, s'il n'en est convenu autrement, composé de cinq membres désignés suivant la méthode prévue aux articles 3 et 4 pour la composition de la Commission de conciliation. Le Tribunal devra être constitué dans les trois mois qui suivront la demande d'arbitrage.

Faute par les Parties de s'entendre sur les termes du compromis soumettant le différend au Tribunal, l'une ou l'autre des Parties aura la faculté, après un préavis d'un mois, de saisir directement le Tribunal de la contestation.

ART. 17. Les Gouvernements suédois et français s'engagent respectivement à s'abstenir, durant le cours d'une procédure ouverte en vertu des dispositions du présent Traité, de toute mesure susceptible d'avoir une répercussion préjudici-

Commission and, if there be such an arrangement, failing a settlement, be submitted by an agreement either to the Permanent Court of International Justice under the conditions and according to the procedure laid down in its Statute, or to an arbitral tribunal under the conditions and according to the procedure laid down in the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

If the Parties are unable to reach unanimity as to the agreement, either of them may, on giving a month's notice, bring the dispute directly before the Permanent Court of International Justice by making application.

ART. 16. Disputes other than those contemplated in paragraph 1 of Article 15 shall, if the conciliation procedure fails, be submitted to a Tribunal having power to give a decision *ex aequo et bono*.

This Tribunal shall, unless it is otherwise agreed, be composed of five members appointed by the method laid down in Articles 3 and 4 for the composition of the Conciliation Commission. The Tribunal must be set up within three months of the request for arbitration.

Should the Parties fail to reach unanimity as to the terms of the agreement by which they should submit the dispute to the Tribunal, either Party may, on giving one month's notice, bring the dispute directly before the Tribunal.

ART. 17. The Swedish and French Governments undertake to refrain, during the course of any proceedings instituted under the provisions of the present Treaty, from taking any steps that might prejudicially influence either the

able, soit à l'exécution de la décision à rendre par la Cour permanente de Justice internationale ou par le Tribunal arbitral, soit aux arrangements proposés par la Commission permanente de conciliation et en général à ne procéder à aucun acte, de quelque nature qu'il soit, susceptible d'aggraver ou d'entendre le différend.

Dans tous les cas et notamment si la question au sujet de laquelle les Parties sont divisées résulte d'actes déjà effectués ou sur le point de l'être, la Commission de conciliation ou, si celle-ci ne s'en trouvait pas saisie, la Cour permanente de Justice internationale statuant conformément à l'article 41 de son statut, ou le Tribunal arbitral, indiqueront dans le plus bref délai possible quelles mesures provisoires doivent être prises. Les Hautes Parties contractantes s'engagent respectivement à se conformer aux dites mesures.

ART. 18. Si quelque contestation venait à surgir entre les Hautes Parties contractantes relativement à l'application du présent Traité, cette contestation serait directement portée devant la Cour permanente de Justice internationale dans les conditions prévues à l'article 40 du statut de ladite Cour.

ART. 19. Le présent Traité sera ratifié, la ratification de Sa Majesté le Roi de Suède ayant l'approbation du Riksdag suédois, et les ratifications en seront échangées à Paris aussitôt que faire se pourra.

ART. 20. Le présent Traité qui remplace la Convention d'arbitrage du 9 juillet 1904, entrera en vigueur dès l'échange des ratifications et aura une durée de dix ans à partir de son entrée en vigueur. S'il n'est pas dénoncé six mois avant l'expira-

execution of the decision to be given by the Permanent Court of International Justice or the Arbitral Tribunal, or the arrangements proposed by the Permanent Conciliation Commission, and in general to take no action of any kind that might have the effect of aggravating or extending the dispute.

In all cases, and especially if the question on which the Parties are at issue arises out of acts already performed or about to be performed, the Conciliation Commission, or, if the matter is not before that Commission, the Permanent Court of International Justice pronouncing in accordance with Article 41 of its Statute, or the Arbitral Tribunal, shall indicate as quickly as possible what provisional measures are to be taken. The High Contracting Parties bind themselves to take the said measures.

ART. 18. Should any dispute arise between the High Contracting Parties as to the application of the present Treaty, such dispute shall be brought directly before the Permanent Court of International Justice under the conditions laid down in Article 40 of the Statute of the Court.

ART. 19. The present Treaty shall be ratified, the ratification of His Majesty the King of Sweden having the approval of the Swedish Riksdag, and the ratifications shall be exchanged at Paris as soon as possible.

ART. 20. The present Treaty, which replaces the Arbitration Convention of July 9, 1904, shall come into force upon the exchange of ratifications, and shall remain valid for ten years from its entry into force. Unless denounced six

tion de ce délai, il sera considéré comme renouvelé pour une période de cinq années et ainsi de suite.

Si, lors de l'expiration du présent Traité, une procédure quelconque en vertu de ce Traité se trouvait pendante devant la Commission permanente de conciliation, devant la Cour permanente de Justice internationale ou devant un Tribunal d'arbitrage, cette procédure serait poursuivie jusqu'à son achèvement.

En foi de quoi, les Plénipotentiaires susnommés ont signé le présent Traité.

Fait à Paris, en double exemplaire, le trois mars 1928.

Albert Ehrensvärd  
Aristide Briand

months before the expiration of this period, it shall be deemed to be renewed for a term of five years, and similarly thereafter.

If, at the expiration of the present Treaty, proceedings of any kind in virtue of this Treaty should be pending before the Permanent Conciliation Commission, before the Permanent Court of International Justice, or before an Arbitral Tribunal, such proceedings shall take their course to their conclusion.

In witness whereof the above-named Plenipotentiaries have signed the present Treaty.

Done in duplicate at Paris this third day of March, 1928.

Albert Ehrensvärd  
Aristide Briand

#### PERMANENT COMMISSION OF CONCILIATION

No information available.

### No. 97

#### FRANCE-THE NETHERLANDS: TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Geneva March 10, 1928; ratifications exchanged March 10, 1930.

Original text from Netherlands, *Staatblad*, 1928, No. 467.

(Translation)

Sa Majesté la Reine des Pays-Bas et le Président de la République Française

S'inspirant des relations d'amitié qui unissent heureusement le peuple néerlandais et le peuple français,

Considérant la Convention d'arbitrage conclue entre les Pays-Bas et la France le 6 avril 1904, prorogée le 29 décembre 1909, et restée en vigueur jusqu'à ce jour,

Her Majesty the Queen of the Netherlands and the President of the French Republic,

Paying heed to the friendly relations that happily unite the people of the Netherlands and the French people,

Having regard to the Arbitration Convention concluded between the Netherlands and France on April 6, 1904, renewed on December 29, 1909, and still in force at this day,

Désireux d'y substituer des dispositions permettant d'assurer dorénavant, conformément aux progrès du Droit des Gens, le règlement pacifique, dans tous les cas, des différends et conflits, de quelque nature qu'ils soient, qui viendraient à diviser les deux pays,

Ont résolu de conclure un Traité à cet effet et ont nommé pour leurs plénipotentiaires respectifs savoir:

Sa Majesté la Reine des Pays-Bas:

Jonkheer Frans Beelaerts van Blokland, Son Ministre des Affaires Etrangères;

Le Président de la République Française:

Monsieur Aristide Briand, Député, Ancien Président du Conseil, Ministre des Affaires Etrangères;

Monsieur Henri Fromageot, Jurisconsulte du Ministère des Affaires Etrangères, Commandeur de la Légion d'Honneur;

Lesquels, après avoir échangé leurs pleins pouvoirs respectivement reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Les Hautes Parties contractantes s'engagent réciproquement à ne rechercher, dans aucun cas, autrement que par voie pacifique le règlement des litiges ou conflits, de quelque nature qu'ils soient, qui viendraient à s'élever entre la France et les Pays-Bas et qui n'auraient pu être résolus, dans un délai raisonnable, par les procédés diplomatiques ordinaires.

ART. 2. Tous les litiges, de quelque nature qu'ils soient, ayant pour objet un droit allégué par une des Hautes Parties contractantes et contesté par l'autre, et qui n'auraient pu être réglés à l'amiable par

Being desirous of substituting therefor provisions that will make it possible, in accordance with the advances in international law, to secure in every case the peaceful settlement of disputes and conflicts of whatever nature that may occur to divide the two countries,

Have resolved to conclude a Treaty for that purpose, and have appointed as their respective plenipotentiaries, that is to say:

Her Majesty the Queen of the Netherlands:

Jonkheer Frans Beelaerts van Blokland, Her Minister of Foreign Affairs;

The President of the French Republic:

Monsieur Aristide Briand, Deputy, late Prime Minister, Minister of Foreign Affairs;

Monsieur Henri Fromageot, Legal Adviser to the Ministry of Foreign Affairs, Commander of the Legion of Honour;

Who, having exchanged their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1. The High Contracting Parties mutually undertake in no case to seek otherwise than by peaceful means the settlement of such disputes and conflicts, of whatever nature they may be, as may arise between France and the Netherlands and may not have been settled within a reasonable time by the ordinary diplomatic methods.

ART. 2. All disputes of whatever nature which relate to a right asserted by one of the High Contracting Parties and contested by the other, and which cannot be amicably settled by the ordinary

les procédés diplomatiques ordinaires, seront soumis pour jugement soit à la Cour Permanente de Justice internationale soit à un Tribunal arbitral, ainsi qu'il est prévu ci-après. Il est entendu que les litiges ci-dessus visés comprennent notamment ceux que mentionne l'article 13 du Pacte de la Société des Nations.

Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres Conventions en vigueur entre les Hautes Parties contractantes, seront réglées conformément aux dispositions de ces Conventions.

ART. 3. Avant toute procédure devant la Cour Permanente de Justice internationale et avant toute procédure arbitrale, le litige pourra être, d'un commun accord entre les Parties, soumis afin de conciliation à une Commission internationale permanente, dite *Commission Permanente de Conciliation*, constituée conformément au présent Traité.

ART. 4. Si, dans le cas d'un des litiges visés à l'article 2, les deux Parties n'ont pas eu recours à la Commission permanente de Conciliation ou si celle-ci n'a pas réussi à concilier les Parties, le litige sera soumis d'un commun accord par voie de compromis soit à la Cour de Justice internationale qui statuera dans les conditions et suivant la procédure prévues par son statut, soit à un tribunal arbitral qui statuera dans les conditions et suivant la procédure prévues par la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

A défaut d'accord entre les Parties sur le choix de la juridiction, sur les termes du compromis ou, en cas de procédure arbitrale, sur la

diplomatic methods, shall be referred for judgment either to the Permanent Court of International Justice or to an Arbitral Tribunal as hereinafter provided. It is understood that the disputes referred to above include those mentioned in Article 13 of the Covenant of the League of Nations.

Disputes for the settlement of which a special procedure is laid down by other Conventions in force between the High Contracting Parties shall be settled in accordance with the provisions of those Conventions.

ART. 3. Before any proceedings before the Permanent Court of International Justice or any arbitration proceedings are taken, the dispute may, by agreement between the Parties, be submitted, with a view to effecting a compromise, to a permanent international commission, styled the Permanent Conciliation Commission, constituted as provided in the present Treaty.

ART. 4. If, in any dispute covered by Article 2, the two Parties do not apply to the Permanent Conciliation Commission, or if the latter cannot succeed in bringing about an amicable settlement between them, the case shall be referred by common consent, by means of an agreement, either to the Court of International Justice, which shall give judgment under the conditions and according to the procedure laid down in its Statute, or to an arbitral tribunal, which shall give judgment under the conditions and according to the procedure laid down in the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

Should the Parties fail to reach an agreement as to the election of the jurisdiction, the terms of the



désignation des arbitres, l'une ou l'autre d'entre elles, après un préavis d'un mois, aura la faculté de porter directement, par voie de requête, le litige devant la Cour Permanente de Justice internationale.

ART. 5. S'il s'agit d'une contestation dont l'objet, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux de celle-ci, le différend ne pourra être soumis à la procédure prévue par le présent Traité qu'après jugement passé en force de chose jugée et rendu dans des délais raisonnables par l'autorité judiciaire nationale compétente.

ART. 6. Toutes questions sur lesquelles les Hautes Parties contractantes seraient divisées sans pouvoir les résoudre à l'amiable par les procédés diplomatiques ordinaires, questions dont la solution ne pourrait être recherchée par un jugement ainsi qu'il est prévu par l'article 2 du présent Traité et pour lesquelles une procédure de règlement ne serait pas déjà prévue par un Traité ou Convention en vigueur entre les Parties, seront soumises à la Commission Permanente de conciliation qui sera chargée de proposer aux Parties une solution acceptable et dans tous les cas de leur présenter un rapport.

A défaut d'accord entre les Parties sur la requête à présenter à la Commission, l'une ou l'autre d'entre elles aura la faculté de soumettre directement, après un préavis d'un mois, la question à ladite Commission.

Dans tous les cas, s'il y a contestation entre les Parties sur la question de savoir si le différend a ou non la nature d'un litige visé dans l'article 2 et susceptible de ce

agreement, or, in the case of arbitration, the selection of the arbitrators, either of them shall be entitled, on giving one month's notice, to lay the case directly before the Permanent Court of International Justice by making application.

ART. 5. In the case of a dispute the subject of which, according to the municipal law of one of the Parties, falls within the jurisdiction of the national courts of that Party, the dispute may not be submitted to the procedure provided for in the present Treaty until a judgment with final effect has been delivered within a reasonable time by the competent national judicial authority.

ART. 6. All questions on which the High Contracting Parties may not agree and which cannot be settled amicably by the ordinary diplomatic methods, and of which no settlement can be sought through a judgment as provided in Article 2 of the present Treaty and for the settlement of which no procedure is already laid down by a Treaty or Convention in force between the Parties, shall be referred to the Permanent Conciliation Commission, which shall be directed to propose an acceptable solution to the Parties, and in any event to submit a report to them.

Failing agreement between the Parties as to the request to be made to the Commission, either of them shall be entitled to lay the question directly before the Commission on giving one month's notice.

In every case, if the Parties are at variance as to whether the dispute is or is not of the nature contemplated in Article 2 and accordingly capable of being settled by a judgment, this difference of opinion shall, prior to any proceedings before the Permanent Conciliation

chef d'être résolu par un jugement, cette contestation sera, préalablement à toute procédure devant la Commission Permanente de conciliation, soumise à la décision de la Cour Permanente de Justice Internationale, d'accord entre les Hautes Parties contractantes ou à défaut d'accord à la requête de l'une d'entre elles.

ART. 7. A défaut d'arrangement devant la Commission Permanente de Conciliation dans les cas visés à l'article 6, les Hautes Parties contractantes membres de la Société des Nations gardent la faculté, conformément au Pacte de la Société des Nations, de porter les affaires, qui seraient susceptibles d'entraîner une rupture ou de troubler la paix, devant le Conseil de la Société des Nations qui procédera conformément au Pacte.

ART. 8. La Commission Permanente de Conciliation prévue par le présent Traité sera composée de cinq membres, qui seront désignés comme il suit, savoir: les Hautes Parties contractantes nommeront chacune un Commissaire choisi parmi leurs nationaux respectifs et désigneront d'un commun accord les trois autres Commissaires parmi les ressortissants de tierces Puissances; ces trois Commissaires devront être de nationalités différentes et, parmi eux, les Hautes Parties contractantes désigneront le Président de la Commission.

Les Commissaires sont nommés pour trois ans; leur mandat est renouvelable. Ils resteront en fonctions jusqu'à leur remplacement et, dans tous les cas, jusqu'à l'achèvement de leurs travaux en cours au moment de l'expiration de leur mandat.

Il sera pourvu aussi rapidement que possible et dans un délai qui ne devra pas excéder trois mois, aux

Commission, be referred for decision to the Permanent Court of International Justice, either by agreement between the High Contracting Parties, or failing agreement, at the request of either of them.

ART. 7. Failing a settlement before the Permanent Conciliation Commission in the cases contemplated in Article 6, the High Contracting Parties, as members of the League of Nations, retain the right, in accordance with the Covenant of the League, to bring cases capable of causing a rupture or disturbing the peace before the Council of the League of Nations, which will proceed as provided in the Covenant.

ART. 8. The Permanent Conciliation Commission provided for in the present Treaty shall be composed of five members, who shall be appointed as follows that is to say: each of the High Contracting Parties shall appoint a Commissioner chosen from among its nationals, and the two Parties jointly shall select the other three Commissioners from among the nationals of third Powers; these three Commissioners must be of different nationalities, and one of them shall be appointed by the High Contracting Parties to be President of the Commission.

The Commissioners shall be appointed for three years, and their appointment shall be renewable. They shall remain in office until their places have been filled, and, in any case, until any proceedings in progress at the expiration of their term have been completed.

Any vacancies that may arise through death or resignation, or

vacances qui viendraient à se produire par suite de décès, de démission ou de quelque empêchement permanent ou temporaire en suivant le mode fixé pour les nominations.

ART. 9. La Commission Permanente de Conciliation sera constituée dans les six mois qui suivront l'échange des ratifications du présent Traité.

Si la nomination des membres à désigner en commun n'intervenait pas dans ledit délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, le Président de la Confédération suisse serait, à défaut d'autre entente, prié de procéder aux désignations nécessaires.

ART. 10. La Commission Permanente de Conciliation sera saisie par voie de requête adressée au Président dans les conditions prévues, selon les cas, par les articles 3 et 6.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à la Partie adverse.

ART. 11. Dans un délai de 15 jours à compter de la date où l'une des Hautes Parties contractantes aurait porté une contestation devant la Commission Permanente de conciliation, chacune des Parties pourra, pour l'examen de cette contestation, remplacer son Commissaire par une personne possédant une compétence spéciale dans la matière.

La Partie qui userait de ce droit

through any other cause, permanent or temporary, that may prevent a Commissioner from acting, shall be filled as quickly as possible, and in any case within three months, by the method followed in making appointments.

ART. 9. The Permanent Conciliation Commission shall be set up within six months from the exchange of the ratifications of the present Treaty.

Should the members to be appointed jointly not be appointed within that period, or, in the case of a vacancy, within three months of the occurrence of the vacancy, the President of the Swiss Confederation shall, unless it is agreed otherwise, be asked to make the necessary selections.

ART. 10. A dispute shall be laid before the Permanent Conciliation Commission by a request addressed to the President under the conditions laid down in Article 3 or Article 6 as the case may be.

The request shall contain a brief statement of the subject of the dispute, followed by an invitation to the Commission to take all steps calculated to lead to an amicable settlement.

If the request is made by only one of the Parties, that Party shall immediately notify the other Party thereof.

ART. 11. Within the fortnight following the date on which one of the High Contracting Parties has submitted a dispute to the Permanent Conciliation Commission, either of the Parties may, for the examination of that case, replace its Commissioner by a person possessing special qualifications in the matter.

The Party availing itself of this right shall immediately notify the

en ferait immédiatement la notification à l'autre Partie; celle-ci aura, dans ce cas, la faculté d'agir de même dans un délai de 15 jours à compter de la date où la notification lui sera parvenue.

ART. 12. La Commission Permanente de Conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cet effet toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable, et, s'il y a lieu, leur impartir un délai pour se prononcer.

A la fin de ses travaux, la Commission dressera un rapport qui en constatera le résultat et dont un exemplaire sera remis à chacune des Parties.

Les Parties ne seront jamais liées par les considérations de fait, de droit ou autres auxquelles la Commission se sera arrêtée.

Sous réserve de la disposition de l'article 6 alinéa 3, les travaux de la Commission devront, à moins que les Parties en conviennent différemment, être terminés dans un délai de six mois à compter du jour où la Commission aura été saisie du litige.

ART. 13. A moins de stipulations spéciales contraires, la Commission Permanente de Conciliation réglera elle-même sa procédure qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la Commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du Titre III (Commission internationale d'enquête) de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

other Party; in this case, the latter shall have the option of taking like action within a fortnight after receiving the notification.

ART. 12. The task of the Permanent Conciliation Commission shall be to elucidate the questions in dispute, to collect with that object all useful information by inquiry or otherwise, and to endeavor to bring the Parties to an agreement. It may, after examining the case, inform the Parties of the terms of settlement which seem to it suitable, and, if necessary, lay down a period within which they are to reach their decision.

At the close of its proceedings, the Commission shall draw up a report stating the result; one copy shall be delivered to each of the Parties.

The Parties shall in no case be bound by any facts, legal arguments, or other considerations which the Commission may have accepted.

Subject to the condition laid down in Article 6, paragraph 3, the proceedings of the Commission shall, unless the Parties agree otherwise, be completed within six months from the day on which the dispute was laid before the Commission.

ART. 13. Unless any special stipulation is made to the contrary, the Permanent Conciliation Commission shall decide upon its own procedure, which must in all cases allow of both Parties being heard. In regard to inquiries, the Commission shall, unless it unanimously decides otherwise, adhere to the provisions of Part III (International Commissions of Inquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART 14 La Commission Permanente de Conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son Président

ART 15 Les travaux de la Commission Permanente de Conciliation ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties

Les Hautes Parties contractantes s'engagent à ne pas publier le résultat des travaux de la Commission sans s'être préalablement consultées

ART 16 Les Parties seront représentées auprès de la Commission Permanente de Conciliation par des agents ayant mission de servir d'intermédiaires entre elles et la Commission, elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraîtrait utile

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties, ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement

ART 17 Sauf dispositions contraires du présent Traité, les décisions de la Commission Permanente de Conciliation seront prises à la majorité des voix

La Commission ne pourra prendre de décision portant sur le fond du différend que si tous les membres ont été dûment convoqués et si le Président et deux membres au moins sont présents. Dans le cas où trois membres seulement et le

ART 14 Unless the Parties agree otherwise, the Permanent Conciliation Commission shall meet at the place selected by its President

ART 15 The proceedings of the Permanent Conciliation Commission shall not take place in public unless the Commission, with the consent of the Parties, so decides

The High Contracting Parties undertake not to publish the findings of the Commission without first consulting each other

ART 16 The Parties shall be represented before the Permanent Conciliation Commission by agents whose duty it shall be to act as intermediaries between them and the Commission. They may, in addition, obtain the assistance of counsel and experts appointed by them for that purpose, and they may request that any persons whose testimony may seem to them of value should be heard

The Commission for its part shall be entitled to ask for oral explanations from the agents, counsel, and experts of the two Parties, and from any persons who may think useful to summon with the consent of their respective Governments

ART 17 Except as otherwise provided in the present Treaty, the decisions of the Permanent Conciliation Commission shall be taken by a majority vote

The Commission may not take any decision relating to the actual question at issue unless all the members have been duly given notice and unless the President and at least two other members are present. Should only three other

Président seraient présents, la voix du Président sera définitive.

ART. 18. Les Hautes Parties contractantes s'engagent à faciliter les travaux de la Commission Permanente de Conciliation et, en particulier, à assurer à celle-ci l'assistance de leurs autorités compétentes, à lui fournir dans la plus large mesure possible tous documents et informations utiles et à prendre les mesures nécessaires pour permettre à la Commission de procéder sur leur territoire à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

ART. 19. Pendant la durée des travaux de la Commission Permanente de Conciliation, chacun des Commissaires recevra une indemnité dont le montant sera arrêté d'un commun accord entre les Hautes Parties contractantes qui en supporteront chacune une part égale.

ART. 20. Dans tous les cas et notamment si la question au sujet de laquelle les Parties sont divisées résulte d'actes déjà effectués ou sur le point de l'être, la Cour Permanente de Justice internationale statuant conformément à l'article 41 de son Statut ou, selon le cas, le Tribunal arbitral, indiqueront dans le plus bref délai possible quelles mesures provisoires doivent être prises; la Commission permanente de Conciliation pourra, s'il y a lieu, agir de même après entente entre les Parties.

Chacune des Hautes Parties contractantes s'engage à s'abstenir de toute mesure susceptible d'avoir une répercussion préjudiciable à l'exécution de la décision ou aux arrangements qui seraient proposés par la Commission perma-

members and the President be present, the President shall have a casting vote.

ART. 18. The High Contracting Parties undertake to facilitate the labors of the Permanent Conciliation Commission, and in particular to secure for it the assistance of their competent authorities, to supply it to the greatest possible extent with all relevant documents and information, and to take the necessary steps to enable the Commission to summon and hear witnesses or experts in their territory and to visit the localities in question.

ART. 19. During the proceedings of the Permanent Conciliation Commission, each of the Commissioners shall receive an allowance to be fixed by agreement between the High Contracting Parties and paid by them in equal shares.

ART. 20. In all cases, and especially if the question in dispute between the Parties arises out of acts already performed or about to be performed, the Permanent Court of International Justice, giving its decision in accordance with Article 41 of its Statute, or the Arbitral Tribunal, as the case may be, shall indicate as quickly as possible what provisional measures are to be taken; the Permanent Conciliation Commission may, if necessary, do the same after an understanding between the Parties.

Each of the High Contracting Parties undertakes to refrain from any measures that might prejudicially affect the execution of the decision or the arrangements that may be proposed by the Permanent Conciliation Commission, and, in

nente de Conciliation et, en général, à ne procéder à aucun acte de quelque nature qu'il soit susceptible d'aggraver ou d'étendre le différend.

ART. 21. Le présent Traité reste applicable entre les Hautes Parties contractantes encore que d'autres Puissances aient également un intérêt dans le différend.

ART. 22. Si quelque contestation venait à surgir entre les Hautes Parties contractantes relativement à l'interprétation du présent Traité, cette contestation serait portée devant la Cour Permanente de Justice internationale suivant la procédure prévue dans l'article 4 alinéa 2.

ART. 23. Le présent Traité sera ratifié. Les ratifications en seront échangées à La Haye aussitôt que faire se pourra.

ART. 24. Le présent Traité entrera en vigueur dès l'échange des ratifications et aura une durée de dix ans à compter de son entrée en vigueur. S'il n'est pas dénoncé six mois avant l'expiration de cette période, il sera considéré comme renouvelé tacitement pour une nouvelle période de cinq ans et ainsi de suite.

Si, lors de l'expiration du présent Traité, une procédure quelconque en vertu de ce Traité se trouvait pendante devant la Commission Permanente de Conciliation, devant la Cour Permanente de Justice internationale ou devant le Tribunal d'arbitrage, cette procédure serait poursuivie jusqu'à son achèvement.

ART. 25. Dès l'entrée en vigueur du présent Traité, la Convention d'arbitrage conclue entre la France et les Pays-Bas le 6 avril 1904 et prorogée par la Convention du 29

general, not to take any action of any kind whatsoever that might have the effect of aggravating or extending the dispute.

ART. 21. The present Treaty shall still be applicable as between the High Contracting Parties even if other Powers are also interested in the dispute.

ART. 22. Should any dispute arise between the High Contracting Parties as to the interpretation of the present Treaty, such dispute shall be referred to the Permanent Court of International Justice according to the procedure laid down in Article 4, paragraph 2.

ART. 23. The present Treaty shall be ratified, and the ratifications shall be exchanged at the Hague as soon as possible.

ART. 24. The present Treaty shall come into force immediately upon the exchange of ratifications, and shall remain in operation for ten years from its entry into force. Unless denounced six months before the expiration of that period, it shall be deemed to be tacitly renewed for a further period of five years, and similarly thereafter.

If, on the expiration of the present Treaty, proceedings of any kind under this Treaty are pending before the Permanent Conciliation Commission, the Permanent Court of International Justice, or the Arbitral Tribunal, such proceedings shall be continued to their conclusion.

ART. 25. Upon the entry into force of the present Treaty, the Arbitration Convention concluded between France and the Netherlands on April 6, 1904, and ex-

décembre 1909, sera considérée comme abrogée

En foi de quoi les Plénipotentiaires susnommés ont signé le présent Traité et y ont apposé leurs cachets

Fait à Genève en double exemplaire le dix mars mille neuf cent vingt huit

Beelaerts van Blokland  
A Briand  
Henri Fromageot

tended by the Convention of December 29, 1909, shall be deemed to be annulled

In witness whereof the above-named Plenipotentiaries have signed the present Treaty and have thereto affixed their seals

Done at Geneva in duplicate this tenth day of March, one thousand nine hundred and twenty-eight

Beelaerts van Blokland  
A Briand  
Henri Fromageot

#### PROTOCOL

Les Hautes Parties contractantes sont d'accord pour reconnaître que la disposition de l'article 1er du Traité d'arbitrage signé en date de ce jour, tout en étant applicable à des litiges d'une origine antérieure à sa conclusion, ne saurait justifier la présentation ou le renouvellement de réclamations relatives à des faits anciens, qui appartiennent au passé et qui ne sont actuellement l'objet d'aucune contestation entre les deux Gouvernements

Beelaerts van Blokland  
A Briand  
Henri Fromageot

The High Contracting Parties agree that the provision in Article 1 of the Arbitration Treaty signed this day, though applicable to disputes originating prior to its conclusion, may not serve as ground for the presentation or renewal of complaints relating to events of the past which are not now the subject of any dispute between the two Governments

Beelaerts van Blokland  
A Briand  
Henri Fromageot

#### PERMANENT COMMISSION OF CONCILIATION

No information available



## No. 98

DENMARK-SPAIN: TREATY OF CONCILIATION,  
ARBITRATION, AND COMPULSORY  
ADJUDICATION

Signed at Copenhagen March 14, 1928; ratifications exchanged May 24, 1928.

Original text communicated by the Danish Ministry of Foreign Affairs; <sup>1</sup> English translation from League of Nations, *Treaty Series*, LXXIV, 95-105.

(Translation)

Sa Majesté le Roi de Danemark et d'Islande et Sa Majesté le Roi d'Espagne animés du désir de resserrer les liens d'amitié qui existent entre le Danemark et l'Espagne et de résoudre, selon les principes les plus élevés du droit international public, les différends qui viendraient à s'élever entre les deux pays, ont résolu de conclure à cet effet un traité et ont désigné leurs Plénipotentiaires, à savoir:

Sa Majesté le Roi de Danemark et d'Islande:

M. Laust Moltesen, Docteur ès lettres, Son Ministre des Affaires Étrangères,

Sa Majesté le Roi d'Espagne:

M. Vicente Gutierrez de Agüera, Son Envoyé Extraordinaire et Ministre Plénipotentiaire en Danemark,

lesquels, après s'être fait connaître leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Les Hautes Parties contractantes s'engagent réciproquement à régler par voie pacifique et d'après les méthodes prévues par le présent Traité, tous les litiges ou conflits, de quelque nature qu'ils soient, qui viendraient à s'élever

His Majesty the King of Denmark and Iceland and His Majesty the King of Spain,

Being desirous of strengthening the ties of friendship which exist between Denmark and Spain, and settling, in accordance with the highest principles of international public law, any differences which may arise between them, have resolved to conclude a treaty for this purpose, and have appointed as their Plenipotentiaries:

His Majesty the King of Denmark and Iceland:

M. Laust Moltesen, Ph.D., His Minister for Foreign Affairs;

His Majesty the King of Spain:

M. Vicente Gutierrez de Agüera, His Envoy Extraordinary and Minister Plenipotentiary in Denmark;

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1. The High Contracting Parties undertake to settle by pacific means and in accordance with the methods contemplated in the present Treaty, all disputes or conflicts of every kind which may arise between Denmark and Spain

<sup>1</sup> See also League of Nations, *Treaty Series*, LXXIV, 94.

entre le Danemark et l'Espagne et qui n'auraient pu être résolus par les procédés diplomatiques ordinaires.

and which it may not have been possible to settle by the normal methods of diplomacy.

#### PARTIE I

ART. 2. Tous litiges entre les Hautes Parties contractantes, de quelque nature qu'ils soient, au sujet desquels les Parties se contesteraient réciproquement un droit et qui n'auraient pu être réglés à l'amiable par les procédés diplomatiques ordinaires, seront soumis pour jugement soit à un tribunal arbitral, soit à la Cour Permanente de Justice Internationale. Les contestations pour la solution desquelles une procédure speciale est prévue par d'autres conventions en vigueur entre les Hautes Parties contractantes, seront réglées conformément aux dispositions de ces conventions.

ART. 3. S'il s'agit d'une contestation dont l'objet, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux, cette Partie pourra s'opposer à ce qu'elle soit soumise à la procédure prévue par le présent Traité avant qu'un jugement définitif ait été rendu, dans un délai raisonnable, par l'autorité judiciaire compétente.

ART. 4. Avant d'être soumis à la procédure judiciaire prescrite à l'article 2 du présent Traité, le différend pourra être, d'un commun accord entre les Parties, soumis à fin de conciliation à une Commission Internationale Permanente, dite Commission Permanente de Conciliation, constituée conformément au présent Traité.

ART. 5. La Commission Permanente de Conciliation sera composée de 5 membres. Les Parties

#### PART I

ART. 2. All disputes of every kind between the High Contracting Parties with regard to which the Parties are in conflict as to their respective rights, and which it may not have been possible to settle amicably by the normal methods of diplomacy, shall be submitted for decision either to an arbitral tribunal or to the Permanent Court of International Justice. Disputes for the solution of which a special procedure is provided by other conventions in force between the High Contracting Parties shall be settled in accordance with the provisions of those conventions.

ART. 3. In the case of a dispute, the occasion of which, according to the municipal law of one of the Parties, falls within the jurisdiction of the national courts, that Party may require that the dispute be not submitted to the procedure laid down in the present Treaty until a final judgment has been pronounced within a reasonable time by the competent judicial authority.

ART. 4. Before being submitted to the judicial procedure prescribed in Article 2 of the present Treaty, the dispute may, by agreement between the Parties, be submitted, with a view to amicable settlement to a permanent international commission styled the "Permanent Conciliation Commission," constituted in accordance with the present Treaty.

ART. 5. The Permanent Conciliation Commission shall be composed of five members. The Con-

contractantes nommeront, chacune, un commissaire à leur gré et désigneront, d'un commun accord, les trois autres et, parmi ces derniers, le Président de la Commission. Ces trois commissaires ne devront, ni être ressortissants des Parties contractantes, ni avoir leur domicile sur leur territoire, ou se trouver à leur service. Ils devront être tous trois de nationalité différente.

Les membres de la Commission sont nommés pour trois ans. Sauf accord contraire entre les Parties contractantes, ils ne pourront être révoqués pendant la durée de leur mandat.

Si le mandat d'un membre, désigné d'un commun accord, expire sans qu'aucune des Parties s'oppose à son renouvellement, le mandat est censé renouvelé pour une nouvelle période de trois ans. De même si, à l'expiration du mandat d'un membre désigné par l'une des Parties, cette Partie n'a pas pourvu à son remplacement, son mandat sera censé renouvelé pour trois ans.

Un membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part à l'examen du différend jusqu'à ce que la procédure soit terminée, nonobstant le fait que son remplaçant aurait été désigné.

En cas de décès ou de retraite de l'un des membres de la Commission de Conciliation, il devra être pourvu à son remplacement pour le reste de la durée de son mandat, si possible dans les trois mois qui suivront et, en tout cas, aussitôt qu'un différend aura été soumis à la Commission.

Au cas où l'un des membres de la Commission de Conciliation désignés en commun par les Parties contractantes serait momentanément

tracting Parties shall each nominate a commissioner of its own choosing and shall appoint the three other commissioners by common agreement, and the President of the Commission from among them. These three commissioners may neither be nationals of the Contracting Parties nor be domiciled in their territory nor be in their service. They must all three be of different nationalities.

The members of the Commission shall be appointed for three years. They may not be removed before the expiry of their term unless the Contracting Parties agree otherwise.

If the term of office of a member appointed by common agreement expires without either of the Parties objecting to its extension, it shall be deemed to be extended for a further period of three years. Similarly if, on the expiry of the term of office of a member appointed by one of the Parties, that Party has not arranged for his replacement, his term shall be deemed to be extended for three years.

A member whose term expires while a case is proceeding shall continue to take part in the examination of the dispute until the proceedings are concluded, notwithstanding the fact that his successor may have been appointed.

In the event of the death or resignation of one of the members of the Conciliation Commission, the vacancy shall be filled for the rest of his term of office, if possible within the next three months, and in any case as soon as a dispute is submitted to the Commission.

Should one of the members of the Conciliation Commission appointed jointly by the Contracting Parties be temporarily prevented from taking part in the Commission's

ment empêché de prendre part aux travaux de la Commission par suite de maladie ou toute autre circonstance, les Parties s'entendront pour désigner un suppléant qui siégera temporairement à sa place.

Si la désignation de ce suppléant n'intervient pas dans un délai de trois mois, à compter de la vacance temporaire du siège, il sera procédé conformément à l'article 6 du présent Traité.

ART. 6. La Commission Permanente de Conciliation sera constituée dans les six mois qui suivront l'échange des ratifications du présent Traité.

Si la nomination des membres à désigner en commun n'intervenait pas dans le dit délai ou, en cas de remplacement, dans les trois mois, à compter de la vacance du siège, elle sera confiée à une Puissance tierce, désignée de commun accord par les Parties. Si l'accord ne s'établit pas à ce sujet, chaque Partie désignera une Puissance différente et les nominations seront faites de concert par les Puissances ainsi désignées. Et si, dans un délai de deux mois, ces deux Puissances n'ont pu tomber d'accord, chacune d'elles présentera des candidats en nombre égal aux membres à désigner. Le sort déterminera lesquels des candidats ainsi présentés seront admis.

ART. 7. La Commission Permanente de Conciliation sera saisie par voie de requête adressée au Président par les deux Parties agissant d'un commun accord.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Com-

work owing to illness or any other cause, the Parties shall agree on the appointment of a deputy who shall take his place for the time being.

If no such deputy is appointed within three months from the date when the temporary vacancy occurred, the provisions of Article 6 of the present Treaty shall apply.

ART. 6. The Permanent Conciliation Commission<sup>1</sup> should be constituted within six months following the exchange of ratifications of the present Treaty.

If the nomination of the members to be appointed by common agreement should not have taken place within the said period, or, in the case of the filling of a vacancy, within three months from the date when the seat falls vacant, it shall be entrusted to a third Power designated by agreement between the Parties. Failing such agreement, each Party shall designate a different Power, and the appointments shall be made jointly by the Powers thus designated. If within two months these two Powers have not been able to agree, each of them shall propose a number of candidates equal to the number of members to be appointed. Lots shall be drawn to decide which of the candidates so proposed shall be appointed.

ART. 7. The Permanent Conciliation Commission shall be informed by means of a request addressed to the President by the two Parties acting in agreement.

The request, after giving a summary account of the subject of the dispute, shall contain an invitation

<sup>1</sup> The League of Nations translation has the misprint 'Permanent Commission Conciliation'

mission de procéder à toutes mesures propres à conduire à une conciliation.

ART. 8. Dans le délai de quinze jours à partir de la date où la Commission aura été saisie du différend, chacune des Parties pourra, pour l'examen de ce différend, remplacer le membre permanent, désigné par elle, par une personne possédant une compétence spéciale dans la matière. La Partie qui voudrait user de ce droit en avisera immédiatement l'autre Partie; celle-ci aura la faculté d'user du même droit dans un délai de quinze jours à partir de la date où l'avis lui sera parvenu.

Chaque Partie se réserve de nommer immédiatement un suppléant pour remplacer temporairement le membre permanent désigné par elle qui, par suite de maladie ou de toute autre circonstance, se trouverait momentanément empêché de prendre part aux travaux de la Commission.

ART. 9. La Commission de Conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur imposer un délai pour se prononcer.

À la fin de ses travaux la Commission dressera un procès-verbal constatant, suivant le cas, soit que les Parties se sont arrangées et, s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la Commission devront, à moins que les Parties n'en conviennent différemment, être terminés dans le délai de six

to the Commission to take all necessary measures with a view to arriving at an amicable settlement.

ART. 8. Within fifteen days from the date on which the dispute was brought before the Commission, either Party may, for the examination of that particular dispute, replace the permanent member whom it has appointed by a person possessing special competence in the matter. The Party desiring to avail itself of this right shall immediately inform the other Party. The latter shall be entitled to avail itself of the same right within fifteen days from the date on which it shall have received notification.

Each Party reserves the right immediately to nominate a deputy to replace temporarily the permanent member appointed by it, if the latter, owing to illness or any other circumstance, should be temporarily prevented from taking part in the Commission's work.

ART. 9. The task of the Conciliation Commission shall be to elucidate questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of settlement which seem suitable to it, and lay down a period within which they are to make their decision.

At the close of its proceedings, the Commission shall draw up a report stating, as the case may be, either that the Parties have come to an arrangement, and, if need be, the terms of the arrangement, or that it has been impossible to effect a settlement.

The proceedings of the Commis-

mois à compter du jour où la Commission aura été saisie du litige.

Si les Parties n'ont pas été conciliées, la Commission pourra, à moins que les deux commissaires librement nommés par les Parties ne s'y opposent, ordonner, avant même que la Cour Permanente de Justice Internationale ou le Tribunal Arbitral, saisi du différend, ait statué définitivement, la publication d'un rapport où sera consigné l'avis de chacun des membres de la Commission.

ART. 10. A moins de stipulation spéciale contraire, la Commission de Conciliation réglera elle-même sa procédure, qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la Commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du titre III (Commissions Internationales d'enquêtes) de la Convention de La Haye du 18 Octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 11. La Commission de Conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son Président.

ART. 12. Les travaux de la Commission de Conciliation ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties.

ART. 13. Les Parties seront représentées auprès de la Commission de Conciliation par des agents ayant mission de servir d'intermédiaire entre elles et la Commission; elles pourront, en outre, se faire assister par des conseils et experts

sion must, unless the Parties otherwise agree, be terminated within six months from the date on which the Commission was first notified of the dispute.

If it has been impossible to effect a settlement, the Commission may, unless the two commissioners freely appointed by the Parties object, and even before the Permanent Court of International Justice or the Arbitral Tribunal, to one of which the dispute has been referred, has pronounced a final judgment, order the publication of a report embodying the opinion of each member of the Commission.

ART. 10. Failing any special provision to the contrary, the Conciliation Commission shall lay down its own procedure, which in any case must provide for both Parties being heard. In regard to enquiries, the Commission, unless it unanimously decides otherwise, shall act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 11. The Conciliation Commission shall meet, in the absence of agreement by the Parties to the contrary, at a place selected by its President.

ART. 12. The proceedings of the Conciliation Commission shall not be public, except when a contrary decision has been taken by the Commission with the consent of the Parties.

ART. 13. The Parties shall be represented before the Conciliation Commission by agents, whose duty it shall be to act as intermediaries between them and the Commission. They may, moreover, be assisted by counsel and experts appointed

nommés par elles à cet effet, et demander l'audition de toutes personnes dont le témoignage leur paraîtrait utile

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties, ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement

ART 14 Sauf disposition contraire du présent Traité, les décisions de la Commission de Conciliation seront prises à la majorité des voix

ART 15 Les Parties contractantes s'engagent à faciliter les travaux de la Commission de Conciliation et, en particulier, à lui fournir, dans la plus large mesure possible, tous documents et informations utiles ainsi qu'à user des moyens dont elles disposent pour lui permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux

ART 16 Pendant la durée des travaux de la Commission de Conciliation, chacun des commissaires recevra une indemnité dont le montant sera arrêté d'un commun accord entre les Parties contractantes

Chaque Gouvernement supportera ses propres frais et une part égale des frais communs de la Commission, les indemnités prévues au premier alinéa étant comprises parmi ces frais communs

ART 17 A défaut de conciliation devant la Commission Permanente de Conciliation, la contestation sera soumise soit à un tribunal arbitral, soit à la Cour Permanente de Justice Interna-

by them for that purpose, and they may request that all persons whose evidence appears to them useful should be heard

The Commission on its side shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties, as well as from all persons it may think useful to summon with the consent of their respective Governments

ART 14 Unless otherwise provided in the present Treaty, the decisions of the Conciliation Commission shall be taken by a majority vote

ART 15 The Contracting Parties undertake to facilitate the work of the Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information as well as to use the means at their disposal to enable it to proceed, in their territory and in accordance with their laws, to summon and hear witnesses or experts, and to visit the localities in question

ART 16 During the proceedings of the Conciliation Commission each commissioner shall receive emoluments, the amount of which shall be fixed by agreement between the Contracting Parties

Each Government shall pay its own expenses and shall contribute an equal share to the joint expenses of the Commission, the emoluments referred to in paragraph 1 being included in these joint expenses

ART 17 In the event of no amicable agreement being reached before the Permanent Conciliation Commission, the dispute shall be submitted either to an arbitral tribunal or to the Permanent Court

tionale, suivant les stipulations de l'article 2 du présent Traité.

En ce cas, comme dans celui où il n'y aurait pas eu recours préalable à la Commission Permanente de Conciliation, les Parties établiront de commun accord le compromis déférant le litige à la Cour Permanente de Justice Internationale ou désignant des arbitres. Le compromis déterminera nettement l'objet du différend, les compétences particulières qui pourraient être dévolues à la Cour Permanente de Justice Internationale ou au Tribunal arbitral, ainsi que toutes autres conditions arrêtées entre les Parties. Il sera établi par échange de notes entre les deux Gouvernements.

La Cour Permanente de Justice Internationale chargée de statuer sur le différend ou le Tribunal Arbitral désigné aux mêmes fins, auront respectivement compétence pour interpréter les termes du compromis.

Si le compromis n'est arrêté dans les 3 mois à compter du jour où l'une des Parties aura été saisie de la demande aux fins de règlement judiciaire, chaque Partie pourra, après préavis d'un mois, porter directement, par voie de requête, la contestation devant la Cour Permanente de Justice Internationale.

Au surplus, la procédure applicable sera celle prévue par le statut de la Cour Permanente de Justice Internationale ou, en cas de recours à un tribunal arbitral, celle prévue par la Convention de La Haye du 18 Octobre 1907, pour le règlement pacifique des conflits internationaux.

of International Justice, in accordance with the provisions of Article 2 of the present Treaty.

In that case, as in cases where application was not first made to the Permanent Conciliation Commission, the Parties will jointly draw up the special agreement referring the dispute to the Permanent Court of International Justice or appointing arbitrators. The special agreement shall define clearly the subject of the dispute, the particular powers which may be vested in the Permanent Court of International Justice or the Arbitral Tribunal, and all other conditions arranged between the Parties. It shall be established by an exchange of notes between the two Governments.

The Permanent Court of International Justice, when requested to pronounce upon the dispute, or the Arbitral Tribunal appointed for the same purpose, shall have power to construe the terms of the special agreement.

If the special agreement is not drawn up within three months from the date on which one of the Parties received the request for a judicial settlement, either Party may, after a month's notice, bring the dispute direct before the Permanent Court of International Justice by means of an application.

In all other respects the procedure followed shall be that laid down in the Statute of the Permanent Court of International Justice, or, in the event of resort to an Arbitral Tribunal, that laid down in the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

## PARTIE II

ART. 18. Toutes questions sur lesquelles les Gouvernements des

## PART II

ART. 18. All questions on which the Governments of the two High



deux Hautes Parties contractantes seraient divisés sans pouvoir les résoudre à l'amiable par les procédés diplomatiques ordinaires, dont la solution ne pourrait être recherchée par un jugement, ainsi qu'il est prévu par l'article 2 du présent Traité, et pour lesquelles une procédure de règlement ne serait pas déjà prévue par un Traité ou Convention en vigueur entre les Parties, seront soumises à la Commission Permanente de Conciliation.

A défaut d'accord entre les Parties sur la requête à présenter à la Commission, l'une ou l'autre d'entre elles aura la faculté de soumettre directement, après préavis d'un mois, la question à la dite Commission.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci, sans délai, à la Partie adverse.

La procédure prévue par les articles 7, alinéa 2, et 8 à 16 du présent Traité sera applicable.

ART. 19. Si les Parties ne peuvent être conciliées, le conflit sera, à la requête d'une seule des Parties, soumis pour décision à un tribunal arbitral, qui, à défaut d'autre accord entre les Parties, sera composé de 5 membres désignés pour chaque cas particulier, suivant la méthode prévue aux articles 5 et 6 du présent Traité en ce qui concerne la Commission de Conciliation. Ce tribunal arbitral aura, en pareil cas, les pouvoirs d'amiable compositeur, et dictera un règlement obligatoire pour les Parties.

ART. 20. Lorsqu'il sera question d'arbitrage entre elles, les Parties contractantes s'engagent à conclure,

Contracting Parties may differ without being able to reach an amicable solution by means of the normal methods of diplomacy, and for which a judicial solution cannot be sought as provided in Article 2 of the present Treaty, and for the settlement of which no procedure has been laid down in any Treaty or Convention in force between the Parties, shall be submitted to the Permanent Conciliation Commission.

Failing an agreement between the Parties as to the request to be submitted to the Commission, either Party shall be entitled to submit the question direct to the Commission on giving one month's notice.

If the request is submitted by only one of the Parties, notification thereof shall be made without delay to the other Party.

The procedure laid down in Article 7, paragraph 2, and Articles 8 to 16 of the present Treaty, shall be applicable.

ART. 19. If the Parties cannot be brought to an agreement, the dispute shall, at the request of one Party, be submitted for decision to an Arbitral Tribunal, which, unless the Parties otherwise agree, shall be composed of five members appointed specially for each case by the method provided in Articles 5 and 6 of the present Treaty for appointments to the Conciliation Commission. In such cases the Arbitral Tribunal shall have the powers of a special umpire (*amiabile compositeur*), and shall prescribe a settlement which shall be binding on the Parties.

ART. 20. When there is occasion for arbitration between them, the Contracting Parties undertake to

dans un délai de trois mois à compter du jour où l'une des Parties aura adressé à l'autre la demande d'arbitrage, un compromis spécial concernant l'objet du conflit, ainsi que les modalités de la procédure.

Si ce compromis ne peut être conclu dans le délai prévu, il y sera obligatoirement suppléé conformément à la procédure prévue au titre IV de la Convention de La Haye du 18 Octobre 1907, pour le règlement pacifique des conflits internationaux, qui régira, dans ce cas, le recours à l'arbitrage.

conclude, within three months from the date on which one of them applies to the other for arbitration, a special agreement concerning the subject of the dispute and the details of the procedure.

If this arbitration agreement cannot be concluded within the period specified, the procedure laid down in Part IV of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes shall be obligatorily applied, and in this case the said Convention shall apply to the proceedings.

#### DISPOSITIONS GÉNÉRALES

ART. 21. Si la Cour Permanente de Justice Internationale ou le Tribunal Arbitral établissait qu'une décision d'une instance judiciaire ou de toute autre autorité relevant de l'une des Parties contractantes se trouve entièrement ou partiellement en opposition avec le droit des gens et si le droit constitutionnel de cette Partie ne permettrait pas ou ne permettrait qu'imparfaitement d'effacer, par voie administrative, les conséquences de la décision dont il s'agit, la sentence judiciaire ou arbitrale déterminerait la nature et l'étendue de la réparation à accorder à la partie lésée.

ART. 22. Durant la procédure de conciliation, la procédure judiciaire ou la procédure arbitrale, les Parties contractantes s'abstiendront de toute mesure pouvant avoir une répercussion sur l'acceptation des propositions de la Commission de Conciliation ou sur l'exécution de l'arrêt de la Cour Permanente de Justice Internationale ou de la sentence du Tribunal Arbitral. A cet effet la Commission de Conciliation, la Cour de Justice, et le Tri-

#### GENERAL PROVISIONS

ART. 21. If the Permanent Court of International Justice or the Arbitral Tribunal rules that a decision of a court of law or other authority of one of the Contracting Parties is wholly or in part contrary to international law, and if the constitutional law of that Party does not permit, or only partially permits, the consequences of the decision in question to be annulled by administrative action, the judicial decision or arbitral award shall determine the nature and extent of the reparation to be made to the injured Party.

ART. 22. During the course of conciliation, judicial, or arbitration proceedings, the Contracting Parties shall abstain from all measures which might affect the acceptance of the Conciliation Commission's proposals, or the execution of the decision of the Permanent Court of International Justice or the award of the Arbitral Tribunal. With this object the Conciliation Commission, the Court of Justice, or the Arbitral Tribunal, as the case may

bunal Arbitral ordonneront, le cas échéant, quelles mesures provisionnelles doivent être prises.

ART. 23. Les contestations qui surgiraient au sujet de l'interprétation ou de l'exécution du présent Traité seront, sauf accord contraire, soumises directement à la Cour Permanente de Justice Internationale par voie de simple requête.

ART. 24. Le présent Traité sera ratifié. Les instruments de ratification en seront échangés à Copenhague dans le plus bref délai possible.

Le présent Traité entrera en vigueur à la date de l'échange des ratifications et remplacera, dans les relations entre le Danemark et l'Espagne, la Convention d'Arbitrage conclue à Madrid le 1. décembre 1905. Il aura une durée de dix ans à partir de cette date. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il sera considéré comme renouvelé pour une période de dix années, et ainsi de suite.

Si lors de l'expiration du présent Traité, une procédure de conciliation, de règlement ou d'arbitrage se trouve pendante, elle suivra son cours jusqu'à son achèvement, conformément aux stipulations du présent Traité.

En foi de quoi, les Plénipotentiaires susnommés ont signé le présent Traité, et y ont apposé leur cachet.

Fait à Copenhague, en double exemplaire, le 14 Mars 1928.

Laust Moltesen

Vicente Gutierrez de Agüera

be, shall lay down the provisional measures to be adopted.<sup>1</sup>

ART. 23. Disputes arising as to the interpretation or execution of the present Treaty shall, failing agreement to the contrary, be submitted direct to the Permanent Court of International Justice by a simple application.

ART. 24. The present Treaty shall be ratified. The instruments of ratification shall be exchanged at Copenhagen as soon as possible.

The present Treaty shall come into force on the date of the exchange of ratifications, and shall, as between Denmark and Spain, take the place of the Arbitration Convention concluded at Madrid on December 1, 1905. It shall remain valid for ten years from the date on which it comes into force. Unless it shall have been denounced six months before the expiration of this period, it shall be deemed to be renewed for a period of ten years, and so on for successive periods.

If, at the date on which the present Treaty expires, conciliation, settlement, or arbitration proceedings are pending, they shall be continued to their conclusion in accordance with the provisions of the present Treaty.

In faith whereof the above-named Plenipotentiaries have signed the present Treaty and have thereto affixed their seals.

Done at Copenhagen in duplicate on March 14, 1928.

Laust Moltesen

Vicente Gutierrez de Agüera

#### PERMANENT COMMISSION OF CONCILIATION

No information available.

<sup>1</sup> The meaning is rather ' . . . Tribunal shall, if necessary, lay down the provisional measures to be adopted.'

## No. 99

GREECE-RUMANIA: TREATY OF CONCILIATION,  
ARBITRATION, AND COMPULSORY  
ADJUDICATION

Signed at Geneva March 21, 1928; ratifications not yet exchanged.

Original text communicated by the Greek Legation at Berne. Articles 1 and 2 deal with other matters and are omitted here.

(Translation)

Sa Majesté le Roi de Roumanie  
et Le Président de la République  
Hellénique,

soucieux de maintenir l'ordre de  
choses établi par les Traités et de  
suivre, en toutes circonstances, une  
politique de concorde et de paix,

considérant que la fidèle obser-  
vation des procédures pacifiques  
permet d'arriver au règlement de  
tous les différends internationaux,  
sans jamais avoir recours à la force,  
estimant qu'il est de leur devoir  
de contribuer pour leur part à la  
consécration pratique de ce prin-  
cipe,

tenant compte des liens de cor-  
diale amitié et de confiance mutu-  
elle, ainsi que de la communauté  
d'intérêts et d'idéal de paix qui ont  
toujours existé entre leurs pays,

ont résolu de conclure à ces fins  
un Pacte de non-agression et d'ar-  
bitrage et ont désigné pour leurs  
plénipotentiaires:

Sa Majesté le Roi de Roumanie:  
Monsieur Nicolas Titulesco, Mi-  
nistre des Affaires Etrangères;  
Le Président de la République  
Hellénique:

Monsieur André Michalakopou-  
los, Ministre des Affaires Etran-  
gères,

His Majesty the King of Ru-  
mania and the President of the  
Hellenic Republic,

Being anxious to maintain the  
state of affairs established by the  
Treaties and to follow, in all cir-  
cumstances, a policy of concord  
and peace,

Considering that by faithful ad-  
herence to pacific methods it is  
possible to arrive at a settlement of  
all international differences with-  
out ever resorting to force,

Holding it to be their duty to  
contribute, so far as lies in their  
power, to the practical execution of  
this principle.

Bearing in mind the ties of  
cordial friendship and mutual con-  
fidence between their countries,  
and the fact that they have always  
had common interests and a com-  
mon ideal of peace,

Have resolved to conclude for  
these purposes a Covenant of  
Non-Aggression and Arbitration,  
and have appointed for their pleni-  
potentiaries:

His Majesty the King of Ru-  
mania:

Monsieur Nicolas Titulesco, Min-  
ister of Foreign Affairs;

The President of the Hellenic  
Republic:

Monsieur Andreas Michalakopou-  
los, Minister of Foreign Affairs,

Lesquels après avoir échangé leurs pleins-pouvoirs reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 3. Les Hautes Parties contractantes s'engagent à résoudre par voie de conciliation ou de règlement judiciaire ou arbitrale, et de la manière prévue ci-après, toutes les questions, de quelque nature qu'elle soit, qui viendraient à les diviser et qui n'auraient pu être résolues par les procédés diplomatiques ordinaires.

Toutefois cet engagement ne s'applique pas:

(1) aux différends se rattachant à des faits antérieurs au présent Pacte;

(2) aux différends relatifs à des prétentions que des particuliers auraient contre l'une des Hautes Parties contractantes et qui seront définitivement tranchés par les juridictions nationales compétentes de l'une ou de l'autre des Hautes Parties contractantes;

(3) aux différends portant sur des questions que le droit international laisse à la compétence exclusive des Etats, tel que le droit interne;

(4) aux différends ayant trait au statut territorial des Hautes Parties contractantes ou affectant leurs intérêts vitaux.

ART. 4. Les différends pour la solution desquels une procédure spéciale est prévue par d'autres conventions en vigueur entre les Hautes Parties contractantes seront réglés conformément aux dispositions de ces conventions.

ART. 5. Les différends rentrant dans les termes de l'article 3 et qui seraient purement juridiques seront soumis pour jugement à la Cour Permanente de Justice Internationale, à moins que les Parties ne

Who, having exchanged their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 3. The High Contracting Parties bind themselves to settle by conciliation or by judicial or arbitral settlement, in the manner laid down hereunder, all questions, whatever may be their nature, that may arise to divide them and that it may not have proved possible to settle by the ordinary diplomatic methods.

This undertaking shall not, however, apply to:

(1) disputes connected with events prior to the conclusion of this Covenant;

(2) disputes relating to claims put forward by private persons against either of the High Contracting Parties, where such disputes have already been finally settled by the competent national courts of either of the High Contracting Parties;

(3) disputes affecting questions which international law leaves under the exclusive jurisdiction of States, such as matters of their municipal law;

(4) disputes relating to the territorial status of the High Contracting Parties, or affecting their vital interests.

ART. 4. Disputes for the settlement of which a special procedure is laid down by other conventions in force between the High Contracting Parties shall be settled in accordance with the provisions of such conventions.

ART. 5. Disputes covered by the terms of Article 3 shall, if of a purely legal nature, be referred for judgment to the Permanent Court of International Justice, unless the Parties agree, in the manner

tombent d'accord, dans les termes prévus ci-après, pour recourir à un Tribunal arbitral. S'il y avait divergence sur le point de savoir si le différend est d'ordre purement juridique, la question sera soumise, à la requête de l'une ou de l'autre des parties, à l'examen du Conseil de la Société des Nations, en vertu de l'article 11, alinéa 2, du Pacte de la Société des Nations.

Les Parties s'engagent à se conformer à la recommandation unanime du Conseil de la Société des Nations.

ART. 6. Si les Parties sont d'accord pour soumettre le différend à un Tribunal arbitral, elles rédigeront un compromis. Au cas où elles ne seraient pas d'accord de se référer, purement et simplement, à la Convention de La Haye du 18 Octobre 1907, pour le règlement pacifique des conflits internationaux, elles détermineraient, dans ce compromis, outre le choix des arbitres et l'objet du litige, les modalités de la procédure et les règles de fond à appliquer par les arbitres.

ART. 7. Si les parties sont d'accord pour soumettre le différend à un Tribunal arbitral et, à défaut d'accord entre les Parties, sur le compromis visé à l'article précédent, ou à défaut de désignation d'arbitres, et après un préavis de trois mois, l'une ou l'autre d'entre elles aura la faculté de porter directement, par voie de requête, le différend devant la Cour Permanente de Justice Internationale.

ART. 8. L'arrêt de la Cour Permanente de Justice Internationale ou la sentence du Tribunal arbitral sera exécuté de bonne foi par les Parties.

Les difficultés auxquelles l'interprétation ou l'exécution des arrêts

laid down hereunder, to have recourse to an Arbitral Tribunal. Should there be a difference of opinion as to whether the dispute is of a purely legal nature, the question shall, if either Party so requests, be submitted to the Council of the League of Nations for consideration, under Article 11, paragraph 2, of the Covenant of the League of Nations.

The Parties bind themselves to accept the unanimous recommendation of the Council of the League of Nations.

ART. 6. If the Parties agree to submit the dispute to an Arbitral Tribunal, they shall draw up an arbitration agreement. Should they not agree to adhere unconditionally to the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes, they shall specify in the arbitration agreement not only the arbitrators selected and the matter of the dispute, but also the details of the procedure to be followed and the essential rules to be administered by the arbitrators.

ART. 7. Should the Parties agree to submit the dispute to an Arbitral Tribunal, and should they fail to concur in the arbitration agreement contemplated in the preceding article or fail to appoint arbitrators, either Party shall have the right, after giving three months' notice, of bringing the dispute directly before the Permanent Court of International Justice by making application.

ART. 8. The judgment of the Permanent Court of International Justice or the award of the Arbitral Tribunal shall be executed in good faith by the Parties.

Any difficulties to which the interpretation or execution of judg-

de la Cour Permanente de Justice Internationale ou des sentences arbitrales rendus dans les conditions ci-dessus prévues, pourraient donner lieu, seront tranchés par la Cour Permanente de Justice Internationale, saisie à la requête de l'une ou de l'autre des parties.

ART. 9. Avant toute procédure arbitrale ou avant toute procédure devant la Cour Permanente de Justice Internationale dans les conditions ci-dessus prévues, le différend pourra être, d'un commun accord entre les parties, soumis à la procédure de conciliation prévue par le présent Pacte.

En cas d'échec de la tentative de conciliation et après l'expiration du délai prévu à l'article 21, la Cour Permanente de Justice Internationale, ou le Tribunal arbitral, selon le cas, pourront être saisis du différend dans les conditions prévues dans les articles précédents.

ART. 10. Tous différends rentrant dans les termes de l'article 3 et qui ne seraient pas de nature purement juridique et partant non susceptible d'être soumis à la procédure d'arbitrage visée ci-dessus par les articles 5 à 9 seront soumis obligatoirement à la procédure de conciliation prévue par les dispositions suivantes.

ART. 11. Sur la demande adressée, à cet effet, par une des parties contractantes à l'autre, il devra être constitué dans les trois mois une Commission permanente de conciliation.

ART. 12. La Commission permanente de conciliation sera composée de trois membres. Les Hautes Parties contractantes nommeront chacune un commissaire choisi parmi leurs nationaux respectifs. Elles désigneront, d'un commun

ments of the Permanent Court of International Justice or arbitral awards rendered in the circumstances contemplated above may give rise shall be settled by the Permanent Court of International Justice, if laid before it by either Party.

ART. 9. Prior to any arbitration proceedings or any proceedings before the Permanent Court of International Justice in the circumstances contemplated above, the dispute may, by agreement between the Parties, be submitted to the procedure of conciliation laid down in this Covenant.

Should the attempt at conciliation fail, the Permanent Court of International Justice or the Court of Arbitration, as the case may be, may, after the expiration of the period specified in Article 21, be given cognizance of the dispute under the conditions provided for in the preceding Articles.

ART. 10. All disputes covered by the terms of Article 3 which are not of a purely legal nature, and therefore cannot be submitted to the arbitration procedure laid down in Articles 5 to 9 above, shall be compulsorily submitted to the procedure of conciliation laid down in the clauses which follow.

ART. 11. On request made by either Contracting Party to the other, a Permanent Conciliation Commission shall be set up within three months.

ART. 12. The Permanent Conciliation Commission shall consist of three members. Each of the High Contracting Parties shall nominate a member chosen from among its own nationals. The two Parties shall jointly appoint the

accord, le président qui ne devra ni être ressortissant des Hautes Parties contractantes, ni avoir sa résidence habituelle sur leurs territoires, ni se trouver à leurs services. Si la nomination du président n'intervient pas dans le délai prévu à l'article précédent, ou, en cas de remplacement, dans les trois mois à compter de la vacance au siège, il sera désigné, à défaut d'entente entre les parties, et à la requête de l'une d'entre elles, par le Président de la Confédération Helvétique, s'il y consent.

Les Commissaires sont nommés pour trois ans. Ils seront rééligibles. Ils resteront en fonctions jusqu'à leur remplacement et, en tous les cas, jusqu'à l'expiration de leur mandat.

Tant que la procédure n'est pas ouverte, chacune des Hautes Parties contractantes aura le droit de révoquer le Commissaire nommé par elle et de lui désigner un successeur. Elle aura aussi le droit de retirer son consentement à la nomination du Président.

Il sera pourvu, dans le plus bref délai, aux vacances qui viendraient à se produire par suite d'expiration de mandat, de révocation, de décès, de démission ou de quelque autre empêchement, en suivant le mode fixé pour les nominations.

ART. 13. La Commission de conciliation sera saisie par voie de requête adressée au Président, par les deux parties, agissant d'un commun accord, ou, à défaut, par l'une ou l'autre des parties. La requête, après avoir exposé l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation.

Si la requête émane d'une seule des parties, elle sera notifiée en

President, who must not be a national of either of the High Contracting Parties, nor be habitually resident in their territories, nor be employed in their service. Should the President not have been appointed within the period laid down in the preceding Article, or, in the case of a replacement, within three months of the occurrence of the vacancy, he shall, failing agreement between the Parties, be appointed, at the request of either of them, by the President of the Swiss Confederation, if the latter consents.

The Commissioners shall be appointed for three years, and shall be reëligible. They shall remain in office until their places have been filled, and in any case until the expiration of their term.

So long as proceedings have not been begun, either of the High Contracting Parties shall be entitled to cancel the appointment of the Commissioner appointed by it, and to nominate a successor to him. It shall also be entitled to withdraw its consent to the appointment of the President.

Any vacancies that may occur through the expiration of a member's term of office, or through his dismissal, death, resignation, or any other cause, shall be filled as quickly as possible by the method followed in making appointments.

ART. 13. A dispute shall be laid before the Conciliation Commission by a request addressed to the President by the two Parties acting in concert, or, if this is not possible, by either Party. The request shall contain a statement of the subject of the dispute, followed by an invitation to the Commission to take all steps calculated to lead to an amicable settlement.

If the request is made by only one of the Parties, that Party shall



même temps par celle-ci à l'autre partie.

ART. 14. Dans un délai de quinze jours à partir de la date où l'une des parties aura porté un différend devant la Commission de conciliation, chacune des parties pourra, pour l'examen de ce différend, remplacer son Commissaire par une personne possédant une compétence spéciale dans la matière.

La partie qui userait de ce droit en fera immédiatement la notification à l'autre partie; celle-ci aura, dans ce cas, la faculté d'agir de même dans un délai de quinze jours à partir de la date où la notification lui sera parvenue.

ART. 15. La Commission de conciliation se réunira, sauf accord contraire des parties, au lieu désigné par son Président.

ART. 16. La Commission de conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles et de s'efforcer de concilier les parties.

Après examen de l'affaire elle formulera, dans un rapport, des propositions en vue du règlement du différend.

ART. 17. La procédure devant la Commission de conciliation sera contradictoire.

La Commission règlera elle-même la procédure en tenant compte, sauf décisions contraires prises à l'unanimité, des dispositions contenues au titre III de la Convention de La Haye, du 18 Octobre 1907, pour le règlement pacifique des conflits internationaux.

ART. 18. Les délibérations de la Commission de conciliation auront lieu à huis clos, à moins que la com-

at the same time notify the other Party.

ART. 14. Within the fortnight following the date on which one of the Parties lays a dispute before the Conciliation Commission, either Party may, for the examination of that dispute, replace its Commissioner by a person possessing special qualifications in the matter.

The Party availing itself of this right shall immediately notify the other Party; the latter shall then be entitled to avail itself of the same right within a fortnight after receiving the notification.

ART. 15. Unless the Parties otherwise agree, the Conciliation Commission shall meet at the place selected by its President.

ART. 16. The task of the Conciliation Commission shall be to elucidate the questions in dispute, to collect all useful information with that object, and to endeavor to bring the Parties to an agreement.

After examining the case, it shall make a report formulating proposals for the settlement of the dispute.

ART. 17. The procedure before the Conciliation Commission shall provide for both Parties being heard.

The Commission shall itself settle the procedure, adhering, unless it unanimously decides otherwise, to the provisions of Part III of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 18. The proceedings of the Conciliation Commission shall take place in private, unless the Com-

mission, d'accord avec les Parties, n'en décide autrement.

ART. 19. Les Parties auront le droit de nommer auprès de la Commission des agents, conseils et experts, qui serviront en même temps d'intermédiaires entre elles et la Commission, ainsi que de demander l'audition de toute personne dont le témoignage leur paraîtrait utile.

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux parties ainsi qu'à toute personne qu'elle jugerait utile de faire comparaître, avec l'assentiment de leurs Gouvernements.

ART. 20. Les Parties s'engagent à faciliter les travaux de la Commission de conciliation et en particulier à lui fournir, dans la plus large mesure possible, tous documents et informations utiles, ainsi qu'à user de tous les moyens dont elles disposent d'après leurs législations pour lui permettre de procéder à la citation et à l'audition de témoins ou d'experts.

ART. 21. La Commission de conciliation présentera son rapport dans les quatre mois à compter du jour où elle a été saisie du différend, à moins que les Parties ne conviennent de prolonger ce délai.

Un exemplaire du rapport sera remis à chacune des parties. Le rapport n'aura, ni quant à l'exposé des faits, ni quant aux considérants juridiques, le caractère d'une sentence arbitrale.

ART. 22. La Commission de conciliation fixera le délai dans lequel les parties auront à se prononcer au sujet des propositions de règlement contenues dans son rapport. Ce délai ne dépassera pas trois mois.

mission, with the consent of the Parties, decides otherwise.

ART. 19. The Parties shall be entitled to accredit to the Commission agents, counsel, and experts, who shall at the same time act as intermediaries between them and the Commission, and to request that any persons whose testimony may seem to them of value be heard.

The Commission for its part shall be entitled to ask for oral explanations from the agents, counsel, and experts of the two Parties, and from any persons whom it may think useful to summon with the consent of their Governments.

ART. 20. The Parties undertake to facilitate the work of the Conciliation Commission, and in particular to supply it to the greatest possible extent with all relevant documents and information, and also to use all the means provided by their legislation to enable it to summon and hear witnesses or experts.

ART. 21. The Conciliation Commission shall make its report within four months from the day on which the dispute was laid before it, unless the Parties agree to extend this time-limit.

A copy of the report shall be delivered to each of the Parties. The report shall not have the character of an arbitral award, either as regards the statement of facts or as regards the legal arguments adduced.

ART. 22. The Conciliation Commission shall fix a period within which the Parties are to come to a decision upon the proposals for a settlement set out in its report. This period shall not exceed three months.

ART. 23. Pendant la durée de leurs travaux, chacun des Commissaires recevra une indemnité dont le montant sera arrêté de commun accord des parties qui en supporteront chacune une partie égale.

Les frais généraux occasionnés par le fonctionnement de la Commission seront répartis de la même façon.

ART. 24. Si l'une des parties n'accepte pas les propositions de la Commission de conciliation ou ne se prononce pas dans le délai fixé par son rapport, la question sera, à la requête de l'une ou de l'autre Partie, portée devant le Conseil de la Société des Nations, qui statuera conformément à l'article 15 du Pacte de la Société.

Cette disposition ne s'applique pas dans l'hypothèse prévue à l'article 9.

ART. 25. Le présent Pacte, conforme au Pacte de la Société des Nations, ne pourra être interprété comme restreignant la mission de celle-ci de prendre, à tout moment, et nonobstant toute procédure de conciliation et d'arbitrage, les mesures propres à sauvegarder efficacement la paix du monde.

ART. 26. Le présent Pacte sera ratifié et les instruments de ratification en seront échangés dans la plus bref délai.

Le Pacte entrera en vigueur dès l'échange des ratifications. Il est conclu pour la durée de dix ans, à compter de son entrée en vigueur.

S'il n'est pas dénoncé six mois avant l'expiration de ce terme, il sera censé être renouvelé pour une nouvelle période de cinq ans et ainsi de suite.

Si une procédure de conciliation ou une procédure arbitrale ou judiciaire est pendante lors de l'expiration du présent pacte, elle

ART. 23. During their proceedings, each of the Commissioners shall receive an allowance, the amount of which shall be fixed by common consent of the Parties, each of whom shall defray an equal share.

The general expenses of the proceedings of the Commission shall be divided in the same manner.

ART. 24. Should one of the Parties not accept the proposals of the Conciliation Commission, or fail to come to a decision within the period laid down in its report, the question shall, at the request of either Party, be referred to the Council of the League of Nations, which shall decide in conformity with Article 15 of the Covenant of the League.

This provision shall not apply in the case contemplated in Article 9.

ART. 25. The task of the Covenant is in conformity with the Covenant of the League of Nations, and may not be interpreted as limiting the right of the League to take at any moment, notwithstanding any conciliation or arbitration proceedings, appropriate measures to safeguard effectively the peace of the world.

ART. 26. The present Covenant shall be ratified, and the instruments of ratification shall be exchanged as soon as possible.

The Covenant shall come into force upon the exchange of ratifications. It is concluded for a period of ten years from its entry into force.

Unless it is denounced six months before the expiration of this period, it shall be deemed to be renewed for a further period of five years, and similarly on subsequent occasions.

If any conciliation proceedings or arbitral or judicial proceedings are pending at the time of the expiration of this Covenant, they shall

suivra son cours conformément aux dispositions du présent Pacte, à moins que les Parties n'en conviennent autrement.

Fait à Genève, en double exemplaire, le vingt-et-un Mars Mil neuf cent vingt-huit.

take their course in accordance with the provisions of this Covenant, unless the Parties agree otherwise.

Done at Geneva in duplicate on the twenty-first day of March, one thousand nine hundred and twenty-eight.

#### PERMANENT COMMISSION OF CONCILIATION

No information available.

### No. 100

#### DENMARK-HAITI: TREATY OF CONCILIATION AND COMPULSORY ADJUDICATION

Signed at Washington April 5, 1928; ratifications exchanged December 4, 1929.

Original text communicated by the Danish Ministry of Foreign Affairs.

(Translation)

Sa Majesté le Roi de Danemark et d'Islande et le Président de la République d'Haiti,

Considérant le Statut de la Cour Permanente de Justice Internationale et la disposition facultative concernant l'article 36, paragraphe 2, de ce Statut,

Animés du désir d'assurer, conformément aux principes consacrés par le Pacte de la Société des Nations, le règlement pacifique de tous les différends et conflits, de quelque nature qu'ils soient, qui viendraient à diviser le Danemark et Haiti,

Ont résolu de conclure un Traité à cet effet et ont nommé pour leurs Plénipotentiaires respectifs, savoir:

Sa Majesté le Roi de Danemark et d'Islande:

Monsieur Constantin Brun, Son Envoyé extraordinaire et Ministre plénipotentiaire à Washington, D. C.,

His Majesty the King of Denmark and Iceland and the President of the Republic of Haiti,

Having regard to the Statute of the Permanent Court of International Justice and to the optional clause concerning Article 36, paragraph 2, of that Statute,

And being desirous of insuring, in accordance with the principles laid down in the Covenant of the League of Nations, the peaceful settlement of all differences and conflicts, of whatever nature they may be, that may come between Denmark and Haiti,

Have resolved to conclude a treaty for that purpose, and have appointed for their respective Plenipotentiaries, that is to say:

His Majesty the King of Denmark and Iceland:

Monsieur Constantin Brun, His Envoy Extraordinary and Minister Plenipotentiary at Washington, D. C.;

Le Président de la République d'Haïti:

Monsieur Hannibal Price, Envoyé extraordinaire et Ministre plénipotentiaire de la République d'Haïti à Washington, D. C.,

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des articles suivants:

ARTICLE 1. Les Hautes Parties Contractantes s'engagent à soumettre à la Cour Permanente de Justice Internationale tous les différends et tous les litiges entre le Danemark et Haïti qui n'auront pu être résolus par la voie diplomatique ou par la procédure de conciliation mentionnée à l'article 2.

Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres Conventions en vigueur entre les Hautes Parties Contractantes, seront réglées conformément aux dispositions de ces Conventions.

ART. 2. S'il s'élève entre le Danemark et Haïti un différend n'ayant pu être réglé par la voie diplomatique dans un délai raisonnable, les Hautes Parties Contractantes s'engagent à le soumettre, aux fins d'enquête et de conciliation, à un commissaire nommé d'un commun accord par les Hautes Parties Contractantes.

Au cas où cet accord ne pourrait s'établir dans un délai de six mois à compter du moment où l'une des Parties a adressé une invitation à cet égard à l'autre Partie, la nomination du Commissaire sera effectuée, à la requête d'une des Parties, par le Président de la Cour Permanente de Justice Internationale ou, si celui-ci est ressortissant d'une des Hautes Parties Contractantes, par le Vice-Président ou au besoin

The President of the Republic of Haiti:

Monsieur Hannibal Price, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Haiti at Washington, D. C.;

Who, having exchanged their full powers, found in good and due form, have agreed upon the following articles:

ARTICLE 1. The High Contracting Parties undertake to submit to the Permanent Court of International Justice all differences and disputes between Denmark and Haiti that it may not have been possible to settle through the diplomatic channel or by the procedure of conciliation mentioned in Article 2.

Disputes for the settlement of which a special procedure is laid down in other conventions in force between the High Contracting Parties shall be dealt with as provided in those conventions.

ART. 2. Should there arise between Denmark and Haiti a dispute which it has proved impossible to settle through the diplomatic channel within a reasonable time, the High Contracting Parties undertake to submit it, with a view to investigation and conciliation, to a commissioner appointed by agreement between the High Contracting Parties.

In case no such agreement can be reached within six months from the date on which one of the Parties addresses an invitation to that effect to the other Party, the Commissioner shall be appointed, at the request of either of the Parties, by the President of the Permanent Court of International Justice, or, if he is a national of one of the High Contracting Parties, by the

par le membre le plus âgé de la Cour qui n'est pas leur ressortissant.

ART. 3. Le Commissaire réglera lui-même la procédure et fera un rapport comportant un projet de règlement du différend, s'il y a lieu.

Les travaux du Commissaire devront, à moins que les Parties n'en conviennent différemment, être terminés dans le délai de six mois à compter de sa nomination.

ART. 4. A défaut d'accord entre les Parties sur la base du rapport du Commissaire et après un préavis de trois mois, l'une ou l'autre d'entre Elles aura la faculté de porter directement, par voie de simple requête, la contestation devant la Cour Permanente de Justice Internationale qui décidera conformément aux règles contenues dans son Statut.

Les Parties conviennent que les différends qui, de l'avis de la Cour, ne seraient pas d'ordre juridique, peuvent être réglés par la Cour suivant les principes du droit et de l'équité.

ART. 5. S'il s'agit d'une contestation dont l'objet, d'après la législation interne de l'une des Parties, relève de la compétence des tribunaux nationaux de celle-ci, y compris les tribunaux administratifs, cette contestation ne sera soumise à l'une des procédures prévues par le présent Traité qu'après jugement passé en force de chose jugée rendu par l'autorité judiciaire nationale compétente.

ART. 6. Si la sentence de la Cour déclarait qu'une décision ou une mesure prise par la Justice ou toute autre autorité de l'un des deux Etats se trouve entièrement ou partiellement en opposition avec le droit international, et si le droit

Vice-President, or, if necessary, by the senior member of the Court who is not a national of either of the Parties.

ART. 3. The Commissioner shall himself settle the procedure, and shall make a report embodying a proposal for the settlement of the dispute, if possible.

The work of the Commissioner shall, unless the Parties otherwise agree, be concluded within six months of his appointment.

ART. 4. If the Parties fail to reach an agreement on the basis of the Commissioner's report, either of them shall be entitled, on giving three months' notice, to bring the dispute directly, by a simple application, before the Permanent Court of International Justice, which shall decide it in accordance with the rules contained in its Statute.

The Parties agree that disputes which, in the opinion of the Court, are not of a legal nature, may be settled by the Court according to the principles of law and equity.

ART. 5. In the case of a dispute, the occasion of which, according to the municipal law of one of the Parties, falls within the jurisdiction of the national courts of that Party, including the administrative courts, such dispute shall not be submitted to any of the procedures provided for in the present Treaty until a judgment with final effect has been rendered by the competent national judicial authority.

ART. 6. Should the award of the Court state that a decision or measure taken by the courts of justice or any other authority of one of the two States is wholly or in part contrary to international law, and if the constitutional law

constitutionnel du dit Etat ne permet pas ou ne permet qu'en partie d'effacer les conséquences de cette décision ou de cette mesure, les Parties conviennent qu'il devra être accordé à la Partie lésée une satisfaction équitable d'un autre ordre.

ART. 7. Les Contestations qui surgiraient au sujet de l'interprétation ou de l'exécution du présent Traité seront soumises directement à la Cour permanente de Justice Internationale par voie de simple requête.

ART. 8. Le présent Traité sera ratifié. Les ratifications en seront échangées à Washington, D. C.

Il entrera en vigueur dès l'échange des ratifications et aura une durée de dix ans à compter de son entrée en vigueur. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il sera considéré comme renouvelé pour une période de cinq années et ainsi de suite.

Si à l'expiration du présent Traité, une procédure quelconque en vertu de ce Traité se trouvait pendante devant le Commissaire ou devant la Cour Permanente de Justice Internationale, cette procédure serait poursuivie jusqu'à son achèvement.

En foi de quoi, les Plénipotentiaires sus-nommés ont signé le présent Traité et y ont apposé leurs cachets.

Fait à Washington, D. C. le 5 Avril 1928.

C. Brun  
H. Price

of that State does not permit, or only partly permits, the consequences of such decision or measure to be annulled, the Parties agree that the injured Party shall be given equitable satisfaction in some other form.

ART. 7. Disputes which may arise as to the interpretation or execution of the present Treaty shall be submitted directly to the Permanent Court of International Justice by a simple application.

ART. 8. The present Treaty shall be ratified. The ratifications shall be exchanged at Washington, D. C.

It shall come into force upon the exchange of ratifications, and shall remain valid for ten years from its entry into force. Unless it is denounced six months before the expiration of that period, it shall be deemed to be renewed for a term of five years, and similarly thereafter.

If, on the expiration of the present Treaty, proceedings of any kind under this Treaty are pending before the Commissioner or before the Permanent Court of International Justice, such proceedings shall be continued to their conclusion.

In witness whereof the above-named Plenipotentiaries have signed the present Treaty and have thereto affixed their seals.

Done at Washington, D. C., on April 5, 1928.

C. Brun  
H. Price

#### COMMISSION OF CONCILIATION

Not permanent. The Treaty provides for the appointment of one Conciliator whenever a case arises.

## No. 101

ITALY-THE UNITED STATES OF AMERICA: TREATY  
OF ARBITRATION

Signed at Washington April 19, 1928; ratifications not yet exchanged.

Original text <sup>1</sup> communicated by the Department of State of the United States.

The President of the United States of America and His Majesty the King of Italy

Determined to prevent so far as in their power lies any interruption in the peaceful relations that happily have always existed between the two nations,

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them; and

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the Powers of the world;

Have decided to conclude a new treaty of arbitration enlarging the scope and obligations of the arbitration convention signed at Washington on March 28, 1908, which expired by limitation on January 22, 1924, and for that purpose they have appointed as their respective Plenipotentiaries

The President of the United States of America, Frank B. Kellogg, Secretary of State of the United States, and

His Majesty the King of Italy, Nobile Giacomo de Martino, Ambassador Extraordinary and Plenipotentiary to the United States,

who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I. All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to the Permanent International Commission constituted pursuant to the treaty signed at Washington May 5, 1914, between Italy and the United States and still in force, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement; which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

<sup>1</sup> The Italian text is also authentic.



The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of the Kingdom of Italy in accordance with the constitutional laws of that Kingdom.

ART. II. The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(a) is within the domestic jurisdiction of either of the High Contracting Parties;

(b) involves the interests of third Parties;

(c) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine;

(d) depends upon or involves the observance of the obligations of Italy in accordance with the Covenant of the League of Nations.

ART. III. The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by the Kingdom of Italy in accordance with its constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the English and Italian languages, both texts having equal force, and hereunto affix their seals.

Done at Washington the nineteenth day of April in the year of our Lord one thousand nine hundred and twenty-eight.

Frank B. Kellogg  
Giacomo de Martino

## No. 102

### SPAIN-SWEDEN: TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Madrid April 26, 1928; ratifications exchanged June 16, 1928.

Original text from Sweden, *Överenskommelser med främmande makter*, 1928, No. 14.<sup>1</sup>

English translation from League of Nations, *Treaty Series*, LXXVII, 79-91.

(Translation)

Sa Majesté le Roi de Suède et Sa Majesté le Roi d'Espagne, animés du désir de resserrer les liens d'amitié qui existent entre la Suède et l'Espagne et de résoudre, sur les principes les plus élevés du

His Majesty the King of Sweden and His Majesty the King of Spain, being desirous of strengthening the ties of friendship existing between Sweden and Spain and of settling, in accordance with the highest

<sup>1</sup> See also League of Nations, *Treaty Series*, LXXVII, 78.

droit international public, les différends qui viendraient à s'élever entre les deux pays,

ont résolu de conclure à cet effet un traité et ont désigné pour Leurs Plénipotentiaires, à savoir:

Sa Majesté le Roi de Suède:

Son Excellence M. Ivan Danielsson, Son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté Catholique, Commandeur de première classe de Son Ordre de l'Etoile Polaire, Grand-Croix de l'Ordre d'Isabelle la Catholique, etc.;

Sa Majesté le Roi d'Espagne:

Son Excellence Don Miguel Primo de Rivera y Orbaneja, Marquis de Estella, Président de Son Conseil des Ministres et Son Ministre d'Etat, Grand d'Espagne, Lieutenant Général des Armées, décoré de la Grand' Croix, laurée, de l'Ordre Royal et Militaire de Saint Ferdinand, Chevalier Grand-Croix des Ordres de Saint Hermenegilde, du Mérite Militaire, du Mérite Naval, de l'Ordre de Wasa de Suède, Son Gentilhomme de la Chambre en exercice et service, etc.;

lesquels, après s'être communiqué leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1. Les Hautes Parties contractantes s'engagent réciproquement à régler par voie pacifique et d'après les méthodes prévues par le présent Traité, tous les litiges ou conflits, de quelque nature qu'ils soient, qui viendraient à s'élever entre la Suède et l'Espagne et qui n'auraient pu être résolus par les procédés diplomatiques ordinaires.

#### PARTIE I

ART. 2. Tous les litiges entre les Hautes Parties contractantes, de

principles of public international law, any disputes which may arise between the two countries, have resolved to conclude a Treaty for this purpose and have appointed as their Plenipotentiaries:

His Majesty the King of Sweden:

His Excellency M. Ivan Danielsson, His Envoy Extraordinary and Minister Plenipotentiary to His Catholic Majesty, Commander of the First Class of His Order of the Polar Star, Knight Grand Cross of the Order of Isabella the Catholic, etc.;

His Majesty the King of Spain:

His Excellency Don Miguel Primo de Rivera y Orbaneja, Marquis de Estella, His Prime Minister and Minister of State, Grandee of Spain, Lieutenant-General of the Armies, decorated with the Grand Cross, with laurels, of the Royal and Military Order of Saint Ferdinand, Knight Grand Cross of the Orders of St. Hermenegilde, of Military Merit, of Naval Merit, of the Swedish Order of Vasa, Lord in Waiting, etc.,

Who, having communicated their full powers found in good and due form, have agreed upon the following provisions:

ARTICLE 1. The High Contracting Parties reciprocally undertake to settle by pacific means and in accordance with the methods provided for in the present Treaty, all disputes or conflicts of any nature whatsoever which may arise between Sweden and Spain and which it may not have been possible to settle by the normal methods of diplomacy.

#### PART I

ART. 2. All disputes of every kind between the High Contract-

quelque nature qu'ils soient, au sujet desquels les Parties se constateraient réciproquement un droit et qui n'auraient pu être réglés à l'amiable par les procédés diplomatiques ordinaires, seront soumis pour jugement, soit à la Cour permanente de Justice internationale, soit à un tribunal arbitral.

Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres conventions en vigueur entre les Hautes Parties contractantes seront réglées conformément aux dispositions de ces conventions.

ART. 3. Avant la procédure devant la Cour permanente de Justice internationale ou devant le tribunal arbitral, le différend pourra être, d'un commun accord entre les Parties, soumis à fin de conciliation à une Commission internationale permanente dite Commission permanente de conciliation, constituée conformément au présent Traité.

ART. 4. S'il s'agit d'une contestation dont l'objet, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux, cette Partie pourra s'opposer à ce qu'elle soit soumise à la procédure prévue par le présent Traité avant qu'un jugement définitif ait été rendu, dans un délai raisonnable, par l'autorité judiciaire compétente.

ART. 5. La Commission permanente de conciliation sera composée de cinq membres. Les Parties contractantes nommeront, chacune, un commissaire à leur gré et désigneront, d'un commun accord, les trois autres et, parmi ces derniers, le Président de la Commission. Ces trois commissaires ne devront, ni être ressortissants des

ing Parties with regard to which the Parties are in conflict as to their respective rights, and which it may not have been possible to settle amicably by the normal methods of diplomacy, shall be submitted for decision either to the Permanent Court of International Justice or to an Arbitral Tribunal.

Disputes for the settlement of which a special procedure is laid down in other conventions in force between the High Contracting Parties shall be settled in conformity with the provisions of those conventions.

ART. 3. Before any resort is made to the Permanent Court of International Justice or to the Arbitral Tribunal, the dispute may, by agreement between the Parties, be submitted with a view to amicable settlement to a permanent international commission, styled the Permanent Conciliation Commission, constituted in accordance with the present Treaty.

ART. 4. In the case of a dispute the occasion of which, according to the municipal law of one of the Parties, falls within the competence of the national courts, such Party may oppose the submission of the dispute to the procedure laid down in the present Treaty until a judgment with final effect has been pronounced, within a reasonable time, by the competent judicial authority.

ART. 5. The Permanent Conciliation Commission shall be composed of five members. The Contracting Parties shall each appoint a commissioner of its own choosing, and shall appoint, by agreement, the other three commissioners and, from among the latter, the President of the Commission. These three commissioners may not be

**Parties contractantes, ni avoir leur domicile sur leur territoire, ou se trouver à leur service. Ils devront être tous trois de nationalité différente**

**nationals of the Contracting Parties, nor may they have their domicile in the territory or be employed in the service of the Contracting Parties. They must all three be of different nationality**

Les Commissaires seront nommés pour trois ans. Si, à l'expiration du mandat d'un membre de la Commission, il n'est pas pourvu à son remplacement, son mandat est censé renouvelé pour une période de trois ans, les Parties contractantes se réservent toutefois de transférer, à l'expiration du terme de trois ans, les fonctions du Président à un autre des membres de la Commission désignés en commun.

The commissioners shall be appointed for three years. If on the expiry of the term of office of a member of the Commission no arrangement has been made for his replacement, his term of office shall be deemed to have been renewed for a period of three years. Nevertheless, the Contracting Parties reserve the right, on the expiry of the term of three years, to transfer the functions of President to another of the members of the Commission appointed by agreement.

Un membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part à l'examen du différend jusqu'à ce que la procédure soit terminée, nonobstant le fait que son remplaçant aurait été désigné.

Any member whose term of office expires while proceedings are still in progress shall continue to take part in the examination of the dispute until the close of such proceedings, even if his successor has been appointed.

En cas de décès ou de retrait de l'un des membres de la Commission de conciliation, il devra être pourvu à son remplacement pour le reste de la durée de son mandat, si possible dans les trois mois qui suivront et, en tout cas, aussitôt qu'un différend aura été soumis à la Commission.

A vacancy occurring as a result of the death or retirement of a member of the Conciliation Commission shall be filled for the remainder of the term of office of such member, if possible within the following three months, and in any case as soon as a dispute is submitted to the Commission.

**ART 6** La Commission permanente de conciliation sera constituée dans les six mois qui suivront l'échange des ratifications du présent Traité.

**ART 6** The Permanent Conciliation Commission shall be constituted within six months from the exchange of ratifications of the present Treaty.

Si la nomination des membres à désigner en commun n'intervenait pas dans le dit délai ou, en cas de remplacement, dans les trois mois, à compter de la vacance du siège, elle sera confiée à une Puissance tierce, désignée de commun accord par les Parties. Si l'accord ne s'é-

If the nomination of the members to be appointed jointly should not have taken place within the said period, or, in the case of the filling of a vacancy, within three months from the time when the seat falls vacant, such nomination shall be entrusted to a third Power.

tablit pas à ce sujet, chaque Partie désignera une Puissance différente et les nominations seront faites de concert par les Puissances ainsi désignées. Et si, dans un délai de deux mois, ces deux Puissances n'ont pu tomber d'accord, chacune d'elles présentera des candidats en nombre égal aux membres à désigner. Le sort déterminera lesquels des candidats ainsi présentés seront admis.

ART. 7. La Commission permanente de conciliation sera saisie par voie de requête adressée au Président par les deux Parties agissant d'un commun accord.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation.

ART. 8. Dans le délai de quinze jours à partir de la date où la Commission aura été saisie du différend, chacune des Parties pourra, pour l'examen de ce différend, remplacer le membre permanent désigné par elle par une personne possédant une compétence spéciale dans la matière. La Partie qui voudrait user de ce droit en avisera immédiatement l'autre Partie, celle-ci aura la faculté d'user du même droit dans un délai de quinze jours à partir de la date où l'avis lui sera parvenu.

Chaque Partie se réserve de nommer immédiatement un suppléant pour remplacer temporairement le membre permanent désigné par elle qui, par suite de maladie ou de toute autre circonstance, se trouverait momentanément empêché de prendre part aux travaux de la Commission.

designated by the Parties by common agreement. Should no agreement be reached on this subject, each Party shall designate a different Power, and the nominations shall be made jointly by the Powers thus designated. If, within two months, these two Powers have not found it possible to agree, they shall each submit as many candidates as there are members to be appointed. The choice of the candidates thus submitted shall be determined by lot.

ART. 7. The Permanent Conciliation Commission shall be informed by means of a request addressed to the President by the two Parties acting in agreement.

The request, after giving a summary account of the subject of the dispute, shall contain the invitation to the Commission to take all necessary measures with a view to arriving at an amicable settlement.

ART. 8. Within fifteen days from the date on which the dispute shall have been brought before the Commission, either Party may, for the examination of the particular dispute, replace the permanent member whom it has appointed by a person possessing special competence in the matter. The Party making use of this right shall immediately inform the other Party. The latter shall be entitled to take similar action within fifteen days from the date on which it shall have received notification.

Each of the Parties reserves the right to appoint immediately a substitute to replace for the time being the permanent member appointed by it if he is temporarily prevented by illness or any other circumstance from taking part in the Commission's work.

Au cas où l'un des membres de la Commission de conciliation désignés en commun par les Parties contractantes serait momentanément empêché de prendre part aux travaux de la Commission par suite de maladie ou de toute autre circonstance, les Parties s'entendront pour désigner un suppléant qui siégera temporairement à sa place. Si la désignation de ce suppléant n'intervient pas dans un délai d'un mois, à compter de la vacance temporaire du siège, il sera procédé conformément à l'article 6 du présent Traité.

ART. 9. La Commission permanente de conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

A la fin de ses travaux, la Commission dressera un procès-verbal constatant, suivant le cas, soit que les Parties se sont arrangées et, s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la Commission devront, à moins que les Parties n'en conviennent différemment, être terminés dans le délai de six mois à compter du jour où la Commission aura été saisie du litige.

Si les Parties n'ont pu être conciliées, la Commission pourra, à moins que les deux commissaires librement nommés par les Parties ne s'y opposent, ordonner la publication immédiate d'un rapport où

Should one of the members of the Conciliation Commission appointed jointly by the Contracting Parties be temporarily prevented by illness or any other circumstance from taking part in the Commission's work, the Parties shall agree with regard to the appointment of a substitute to replace him for the time being. Should the said substitute not be appointed within a month from the date when the seat becomes temporarily vacant, the procedure provided for in Article 6 of the present Treaty shall apply.

ART. 9. The task of the Permanent Conciliation Commission shall be to elucidate questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of settlement which seem suitable to it and lay down a period within which they are to make their decision.

At the close of its proceedings, the Commission shall draw up a report stating, as the case may be, either that the Parties have come to an agreement and, if need be, the terms of the agreement, or that it has been impossible to effect a settlement.

The proceedings of the Commission must, unless the Parties agree otherwise, be terminated within six months from the day on which the Commission was notified of the dispute.

If a settlement has not been effected between the Parties the Commission may, unless the two commissioners freely appointed by the Parties oppose this procedure, order the immediate publication of

sera consigné l'avis de chacun des membres de la Commission.

ART. 10. A moins de stipulation spéciale contraire, la Commission de conciliation réglera elle-même sa procédure, qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la Commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du titre III (Commissions internationales d'enquêtes) de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 11. La Commission de conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son Président.

ART. 12. Les travaux de la Commission de conciliation ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties.

ART. 13. Les Parties seront représentées auprès de la Commission de conciliation par des agents ayant mission de servir d'intermédiaire entre elles et la Commission; elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet, et demander l'audition de toutes personnes dont le témoignage leur paraîtrait utile.

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties, ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement.

ART. 14. Sauf disposition contraire du présent Traité, les dé-

a report containing the opinion of each of the members of the Commission.

ART. 10. Failing any special provision to the contrary, the Conciliation Commission shall lay down its own procedure, which in any case must provide for both Parties being heard. In regard to enquiries, the Commission, unless it unanimously decides otherwise, shall act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 11. The Conciliation Commission shall meet, in the absence of agreement by the Parties to the contrary, at a place selected by its President.

ART. 12. The proceedings of the Conciliation Commission shall not be public, except when a decision to that effect has been taken by the Commission with the consent of the Parties.

ART. 13. The Parties shall be represented before the Conciliation Commission by agents, whose duty it shall be to act as intermediaries between them and the Commission. They may, moreover, be assisted by counsel and experts appointed by them for that purpose, and they may request that all persons whose evidence appears to them useful should be heard.

The Commission on its side shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties, as well as from all persons it may think useful to summon with the consent of their Government.

ART. 14. Unless otherwise provided in the present Treaty, the

cisions de la Commission de conciliation seront prises à la majorité des voix. En cas de partage, la voix du président sera prépondérante.

ART. 15. Les Parties contractantes s'engagent à faciliter les travaux de la Commission de conciliation et, en particulier, à lui fournir, dans la plus large mesure possible, tous documents et informations utiles ainsi qu'à user des moyens dont elles disposent pour lui permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

ART. 16. Pendant la durée des travaux de la Commission de conciliation, chacun des commissaires recevra une indemnité dont le montant sera arrêté d'un commun accord entre les Parties contractantes.

Chaque Gouvernement supportera ses propres frais et une part égale des frais communs de la Commission, les indemnités prévus à l'alinéa 1<sup>er</sup> étant comprises parmi ces frais communs.

ART. 17. A défaut d'un arrangement portant de litige devant la Commission permanente de conciliation et, dans le cas d'un semblable arrangement, à défaut de conciliation devant la Commission permanente de conciliation, la contestation sera soumise par voie de compromis, soit à la Cour permanente de Justice internationale dans les conditions et suivant la procédure prévues par son statut, soit à un tribunal arbitral dans les conditions et suivant la procédure prévues par la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

decisions of the Conciliation Commission shall be taken by a majority. Should the votes be equally divided, the President shall have a casting vote.

ART. 15. The Contracting Parties undertake to facilitate the work of the Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to enable it to proceed in their territory and in accordance with their law to the summoning and hearing of witnesses or experts, and to visit the localities in question.

ART. 16. During the proceedings of the Conciliation Commission, each commissioner shall receive emoluments the amount of which shall be fixed by agreement between the Contracting Parties.

Each Government shall pay its own expenses and shall pay half the joint expenses of the Commission, the emoluments provided for in paragraph 1 being included in these joint expenses.

ART. 17. Failing an agreement to bring the dispute before the Permanent Conciliation Commission and, should such an agreement be arrived at, in the event of no amicable settlement being reached before the Permanent Conciliation Commission, the dispute shall be submitted by means of a special agreement either to the Permanent Court of International Justice under the conditions and according to the procedure provided for in its Statute, or to an Arbitral Tribunal under the conditions and according to the procedure provided for by the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.



Si le compromis n'est pas arrêté dans les trois mois à compter du jour où l'une des Parties aura été saisie de la demande de règlement judiciaire, chaque Partie pourra, après préavis d'un mois, porter directement par voie de requête la contestation devant la Cour permanente de Justice internationale.

## PARTIE II

ART. 18. Toutes questions sur lesquelles les Gouvernements des deux Hautes Parties contractantes seraient divisés sans pouvoir les résoudre à l'amiable par les procédés diplomatiques ordinaires, dont la solution ne pourrait être recherchée par un jugement, ainsi qu'il est prévu par l'article 2 du présent Traité, et pour lesquelles une procédure de règlement ne serait pas déjà prévue par un traité ou convention en vigueur entre les Parties, seront soumises à la Commission permanente de conciliation.

La procédure prévue par les articles 7 à 16 du présent Traité sera applicable.

A défaut d'accord entre les Parties sur la requête à présenter à la Commission, l'une, ou l'autre d'entre elles aura toutefois la faculté de soumettre directement, après préavis d'un mois, la question à la dite Commission.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci, sans délai, à la Partie adverse.

ART. 19. Si les Parties n'ont pu être conciliées, le conflit sera, à la requête de l'une ou l'autre des Parties, soumis pour décision à un tribunal arbitral ayant le pouvoir de statuer *ex aequo et bono*.

Ce tribunal sera, s'il n'en est convenu autrement, composé de cinq membres désignés suivant la

If the special agreement has not been drawn up within three months from the day on which one of the Parties has been informed of the request for judicial settlement, either Party may, on the expiry of one month's notice, bring the dispute direct before the Permanent Court of International Justice by means of an application.

## PART II

ART. 18. All questions on which the Governments of the two High Contracting Parties may differ without being able to reach an amicable solution by the normal methods of diplomacy, the settlement of which cannot be attained by means of a judicial decision as provided in Article 2 of the present Treaty, and for the settlement of which no procedure has been laid down by any treaty or convention in force between the Parties, shall be submitted to the Permanent Conciliation Commission.

The procedure laid down in Articles 7 to 16 of the present Treaty shall be applicable.

Failing agreement between the Parties on the request to be made to the Commission, either Party shall be entitled to submit the question direct to the said Commission on the expiry of one month's notice.

Should the request be preferred by one Party only, that Party shall notify such request forthwith to the other Party.

ART. 19. In the event of no agreement being reached between the Parties, the dispute shall, at the request of either Party, be submitted for decision to an Arbitral Tribunal having power to decide *ex aequo et bono*.

This Tribunal shall, in the absence of agreement to the contrary,

méthode prévue aux articles 5 et 6 du présent Traité pour la constitution de la Commission de conciliation. Le tribunal devra être constitué dans les six mois qui suivront la demande d'arbitrage.

La décision du tribunal arbitral sera obligatoire pour les Parties.

ART. 20. Lorsqu'il y aura lieu à arbitrage entre elles, les Parties contractantes s'engagent à conclure, dans les six mois qui suivront la demande d'arbitrage, un compromis spécial concernant l'objet du conflit ainsi que les modalités de la procédure.

Si ce compromis ne peut être conclu dans le délai prévu, l'une ou l'autre des Parties aura le droit de saisir le tribunal par voie de simple requête. Dans ce cas, le tribunal arbitral réglera lui-même la procédure.

#### DISPOSITIONS GÉNÉRALES

ART. 21. Durant la procédure de conciliation, la procédure judiciaire ou la procédure arbitrale, les Parties contractantes s'abstiendront de toute mesure pouvant avoir une répercussion préjudiciable à l'acceptation des propositions de la Commission de conciliation ou à l'exécution de l'arrêt de la Cour permanente de Justice internationale ou de la sentence du tribunal arbitral. A cet effet, la Commission de conciliation, la Cour de Justice et le tribunal arbitral ordonneront, le cas échéant, quelles mesures provisoires doivent être prises.

ART. 22. Si la Cour permanente de Justice internationale ou le tribunal arbitral établissait qu'une décision d'une autorité judiciaire

consist of five members appointed according to the method laid down in Articles 5 and 6 of the present Treaty for the constitution of the Conciliation Commission. The Tribunal shall be constituted within six months from the request for arbitration.

The decision of the Arbitral Tribunal shall be binding on the Parties.

ART. 20. Should recourse be had to arbitration between the Contracting Parties, the latter undertake to conclude, within six months from the request for arbitration, a special agreement concerning the subject of the dispute and the methods of procedure.

If this agreement cannot be concluded within the time stipulated, either of the Parties may notify the Tribunal by a simple application. In this case the Arbitral Tribunal shall itself lay down its procedure.

#### GENERAL PROVISIONS

ART. 21. During the course of proceedings of conciliation, judicial settlement or arbitration, the Contracting Parties shall abstain from all measures likely to exert any influence prejudicial to the acceptance of the proposals of the Conciliation Commission or to the execution of the judgment of the Permanent Court of International Justice or to the award of the Arbitral Tribunal. For this purpose the Conciliation Commission, the Court of Justice and the Arbitral Tribunal shall, if necessary, lay down the provisional measures to be adopted.

ART. 22. Should the Permanent Court of International Justice or the Arbitral Tribunal find that a decision of a judicial authority or

ou de toute autre autorité relevant de l'une des Parties contractantes se trouve entièrement ou partiellement en opposition avec le droit des gens et si le droit constitutionnel de cette Partie ne permettait pas ou ne permettait qu'imparfaitement d'effacer par voie administrative les conséquences de la décision dont il s'agit, la sentence judiciaire ou arbitrale déterminerait la nature et l'étendue de la réparation à accorder à la Partie lésée.

ART. 23. Les contestations qui surgiraient au sujet de l'interprétation ou de l'exécution du présent Traité seront, sauf accord contraire, soumises directement à la Cour permanente de Justice internationale par voie de simple requête.

ART. 24. Le présent Traité sera ratifié, par Sa Majesté le Roi de Suède avec l'approbation du Riksdag, et par Sa Majesté le Roi d'Espagne après l'accomplissement des formalités établies par les dispositions espagnoles en vigueur. Les instruments de ratification en seront échangés à Stockholm dans le plus bref délai possible.

ART. 25. Le présent Traité, qui remplace la Convention d'arbitrage du 23 janvier 1905, entrera en vigueur à la date de l'échange des ratifications et aura une durée de dix ans à partir de son entrée en vigueur. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il sera considéré comme renouvelé pour une période de dix années, et ainsi de suite.

Si, lors de l'expiration du présent Traité, une procédure de conciliation, de règlement judiciaire ou d'arbitrage se trouve pendante, elle suivra son cours jusqu'à son achèvement.

of any other authority of either of the Contracting Parties is wholly or in part contrary to international law, and if the constitutional law of that Party does not permit or only partially permits the consequences of the decision in question to be annulled by administrative action, the judicial decision or arbitral award should indicate the nature and extent of the compensation to be granted to the injured Party.

ART. 23. Any disputes arising as to the interpretation or execution of the present Treaty shall, in the absence of any agreement to the contrary, be submitted direct to the Permanent Court of International Justice by a simple application.

ART. 24. The present Treaty shall be ratified by His Majesty the King of Sweden with the approval of the Riksdag, and by His Majesty the King of Spain after the formalities prescribed by the regulations in force in Spain have been carried out. The instruments of ratification shall be exchanged at Stockholm as soon as possible.

ART. 25. The present Treaty, which replaces the Arbitration Convention of January 23, 1905, shall come into force on the date of the exchange of ratifications, and shall remain valid for ten years from the date on which it comes into force. Unless it shall have been denounced six months before the expiration of this period it shall be deemed to be renewed for a period of ten years, and similarly thereafter.

If, on the date on which the present Treaty expires, a conciliation, judicial settlement or arbitration procedure is pending, it shall pursue its course until completed.

En foi de quoi, les Plénipotentiaires susnommés ont signé le présent Traité, et y ont apposé leurs sceaux.

Fait à Madrid, en double exemplaire, le 26 avril 1928.

Danielsson

Miguel Primo de Rivera,  
Marques de Estella

In faith whereof the above-named Plenipotentiaries have signed the present Treaty and have thereto affixed their seals.

Done at Madrid in duplicate, April 26, 1928.

Danielsson

Miguel Primo de Rivera,  
Marques de Estella

#### PERMANENT COMMISSION OF CONCILIATION

##### *President appointed by both Parties*

GEORGES THEUNIS, former Prime Minister and Minister of Finance of Belgium. (*Belgian.*)

##### *Members appointed by both Parties*

ERNST VON SIMSON. (*German.*)

SIR ROBERT YOUNGER, BARON BLANESBURGH OF ALLOA, Lord of Appeal in Ordinary. (*British.*)

##### *Member appointed by Spain*

LUIS POLO DE BERNABÉ. (*Spanish.*)

##### *Member appointed by Sweden*

RICHARD JOHANNES SANDLER, former Minister of State of Sweden. (*Swedish.*)

### No. 103

#### GERMANY-THE UNITED STATES OF AMERICA: TREATY OF INVESTIGATION

Signed at Washington May 5, 1928; ratifications exchanged February 25, 1929.

Original text <sup>1</sup> from United States of America, *Treaty Series*, No. 775.

The President of the United States of America and the President of the German Reich, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their plenipotentiaries:

The President of the United States of America, Frank B. Kellogg, Secretary of State of the United States of America; and

The President of the German Reich, Herr Friedrich von Prittwitz und Gaffron, German Ambassador to the United States of America:

<sup>1</sup> The German text is also authentic.

Who, after having communicated to each other their respective full powers, found to be in proper form, have agreed upon and concluded the following articles:

ARTICLE I. Any disputes arising between the Government of the United States of America and the Government of Germany, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the High Contracting Parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report to a permanent International Commission constituted in the manner prescribed in the next succeeding Article, the High Contracting Parties agree not to declare war or begin hostilities during such investigation and before the report is submitted.

ART. II. The International Commission shall be composed of five members, to be appointed as follows: One member shall be chosen from each country, by the Government thereof, one member shall be chosen by each Government from some third country, the fifth member shall be chosen by common agreement between the two Governments, it being understood that he shall not be a citizen of either country. The expenses of the Commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of ratifications of this treaty, and vacancies shall be filled according to the manner of the original appointment.

ART. III. In case the High Contracting Parties shall have failed to adjust a dispute by diplomatic methods, and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, spontaneously by unanimous agreement offer its services to that effect, and in such case it shall notify both Governments and request their cooperation in the investigation.

The High Contracting Parties agree to furnish the Permanent International Commission with all the means and facilities required for its investigation and report.

The report of the Commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the High Contracting Parties shall shorten or extend the time by mutual agreement. The report shall be prepared in triplicate, one copy shall be presented to each Government, and the third retained by the Commission for its files.

The High Contracting Parties reserve the right to act independently on the subject matter of the dispute after the report of the Commission shall have been submitted.

ART. IV. The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof, and by the President of the German Reich in accordance with German constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifi-

cations. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the English and German languages, both texts having equal force, and hereunto affix their seals.

Done at Washington the fifth day of May in the year of our Lord one thousand nine hundred and twenty-eight.

Frank B. Kellogg  
F. von Prittwitz

PERMANENT COMMISSION OF INVESTIGATION

No information available.

No. 104

GERMANY-THE UNITED STATES OF AMERICA:  
TREATY OF ARBITRATION

Signed at Washington, May 5, 1928; ratifications exchanged February 25, 1929.

Original text <sup>1</sup> from United States of America, *Treaty Series*, No. 774.

The President of the United States of America and the President of the German Reich

Determined to prevent so far as in their power lies any interruption in the peaceful relations now happily existing between the two nations;

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them, and

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the Powers of the world;

Have decided to conclude a treaty of arbitration and for that purpose they have appointed as their respective Plenipotentiaries

The President of the United States of America, Frank B. Kellogg, Secretary of State of the United States, and

The President of the German Reich, Herr Friedrich von Prittwitz und Gaffron, German Ambassador to the United States of America:

Who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I. All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not

<sup>1</sup> The German text is also authentic.

been possible to adjust by diplomacy, which have not been adjusted as a result of reference to an appropriate commission of conciliation, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of Germany in accordance with its constitutional laws.

ART. II. The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(a) is within the domestic jurisdiction of either of the High Contracting Parties,

(b) involves the interests of third Parties,

(c) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine,

(d) depends upon or involves the observance of the obligations of Germany in accordance with the Covenant of the League of Nations.

ART. III. The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by the President of the German Reich in accordance with German constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the English and German languages, both texts having equal force, and hereunto affix their seals.

Done at Washington the fifth day of May in the year of our Lord one thousand nine hundred and twenty-eight.

Frank B. Kellogg  
F. von Prittwitz

## No. 105

## ITALY-TURKEY: TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Rome May 30, 1928; ratifications exchanged April 29, 1929.

Original text communicated by the Turkish Embassy at Washington.

I. PREAMBLE AND ARTICLES 3 AND 4 OF TREATY OF NEUTRALITY, CONCILIATION, AND JUDICIAL SETTLEMENT <sup>1</sup>

(Translation)

Le Président de la République Turque et Sa Majesté le Roi d'Italie, animés du désir de consolider les liens d'amitié existant entre les deux pays, et dans le but de contribuer au maintien de la paix générale, ont décidé de conclure un traité de neutralité, de conciliation et de règlement judiciaire, et ont nommé à cet effet pour leurs plénipotentiaires:

Le Président de la République Turque:

Son Excellence Suad Bey, Ambassadeur Extraordinaire et Plénipotentiaire de la République Turque près de Sa Majesté le Roi d'Italie;

Sa Majesté le Roi d'Italie:

Son Excellence Benito Mussolini, Chef du Gouvernement, Premier Ministre, Secrétaire d'Etat, Ministre Secrétaire d'Etat pour les Affaires Etrangères;

Lesquels, après s'être fait connaître leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 3. Les Hautes Parties Contractantes s'obligent de soumettre à une procédure de conciliation les différends de toute espèce

The President of the Turkish Republic and His Majesty the King of Italy, being desirous of strengthening the ties of friendship that exist between the two countries, and with the object of contributing to the maintenance of the general peace, have decided to conclude a treaty of neutrality, conciliation, and judicial settlement, and have for that purpose appointed as their plenipotentiaries:

The President of the Turkish Republic:

His Excellency Suad Bey, Ambassador Extraordinary and Plenipotentiary of the Turkish Republic to His Majesty the King of Italy;

His Majesty the King of Italy:

His Excellency Benito Mussolini, Head of the Government, Prime Minister, Secretary of State, Minister Secretary of State for Foreign Affairs;

Who, after communicating their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 3. The High Contracting Parties bind themselves to submit to a procedure of conciliation disputes of every kind that may

<sup>1</sup> Articles 1 and 2 relate to neutrality and are omitted here. Article 5 provides that the treaty shall remain in force for five years and, unless denounced, shall be automatically renewed for a like period.



qui pourraient surgir entre Elles, et qui n'auraient pu être résolus par la normale voie diplomatique. Dans le cas de non-réussite de la procédure de conciliation, on aura recours à un règlement judiciaire. Le protocole ci-annexé établit la procédure pour la conciliation et le règlement judiciaire.

Le présent article ne s'applique pas aux questions qui, en vertu des Traités en vigueur entre les deux Hautes Parties Contractantes, rentrent dans la compétence de l'une d'Elles. Il ne s'applique pas également aux questions se rapportant, conformément au droit international, au droit de souveraineté.

Chacune des Hautes Parties Contractantes déterminera d'une façon unilatérale, par une déclaration écrite, si une question relève du droit de souveraineté.

Pour qu'une question puisse être soumise à la procédure de conciliation ou à l'arbitrage, conformément aux clauses du Protocole annexé, il faut qu'elle soit reconnue au préalable, par sa nature, conforme aux dispositions du présent article.

La sentence arbitrale sera rendue d'après les principes du droit international.

ART. 4. Les contestations qui pourraient surgir soit dans l'interprétation, soit dans l'exécution du présent Traité, seront soumises directement — par simple demande — à la Cour Permanente de Justice Internationale de la Haye.

arise between them and that cannot be settled through the normal diplomatic channel. Should the procedure of conciliation fail, recourse shall be had to a judicial settlement. The attached protocol lays down the procedure for conciliation and judicial settlement.

This Article does not apply to questions which, under Treaties in force between the two High Contracting Parties, fall within the jurisdiction of one of them; nor does it apply to questions which, according to international law, relate to the rights of sovereignty.

Each of the High Contracting Parties shall decide independently, by a written declaration, whether a question concerns the rights of sovereignty.

Before a question can be submitted to the procedure of conciliation or of arbitration in accordance with the clauses of the attached Protocol, it must be established as falling by its nature under the provisions of this article.

The arbitral award shall be rendered according to the principles of international law.

ART. 4. Disputes that may arise as to the interpretation or execution of the present Treaty shall be referred directly, by a simple application, to the Permanent Court of International Justice at the Hague.

## II. PROTOCOL ANNEXED TO TREATY OF NEUTRALITY, CONCILIATION, AND JUDICIAL SETTLEMENT

ARTICLE 1. Les Hautes Parties Contractantes institueront une Commission permanente de conciliation, composée de cinq membres.

ARTICLE 1. The High Contracting Parties shall set up a Permanent Conciliation Commission composed of five members.

Elles nommeront chacune un membre de leur agrément et désigneront les autres trois d'un commun accord. Ces trois membres ne devront pas être ressortissants des Parties contractantes, ni avoir leur domicile dans leur territoire, ni se trouver à leur service. Les Parties désigneront, d'un commun accord, le Président parmi ces trois membres.

Tant que la procédure n'est pas ouverte, chacune des Parties contractantes pourra révoquer la nomination du commissaire choisi par elle et lui désigner un successeur; elle pourra également retirer son assentiment à la nomination de chacun des trois membres désignés en commun. Dans ce cas, il sera nécessaire de procéder sans retard au remplacement des membres dont le mandat aurait pris fin.

Il sera pourvu au remplacement des commissaires de la même manière fixée pour leur nomination.

Au cours effectif de la procédure, les membres nommés d'un commun accord recevront une indemnité, dont le montant sera arrêté entre les parties contractantes et payé par Elles dans une égale mesure. Chaque partie, par contre, fixera et payera l'indemnité du membre de la Commission nommé par Elle.

Les frais généraux de la Commission seront partagés également entre les deux Parties.

La Commission sera constituée dans les six mois qui suivront l'échange des ratifications du Traité de neutralité, de conciliation et de règlement judiciaire dont le présent Protocole fait à tout effet partie intégrante, et se réunira au lieu désigné par son Président.

Si la nomination des membres à désigner d'un commun accord ne s'effectuait pas dans le délai de six mois à partir de la date de l'échange des ratifications du Traité

Each Party shall nominate a member of its own choice, and the other three members shall be appointed jointly. These three members must not be nationals of the Contracting Parties, nor domiciled in their territory, nor employed in their service. The Parties shall agree upon the appointment of the President from among these three members.

So long as no proceedings have been begun, either of the Contracting Parties may annul the appointment of the commissioner chosen by it and appoint a successor to him; it may also withdraw its agreement to the nomination of any of the three members appointed jointly. In such case, the vacancies so caused must be filled without delay.

Vacancies shall be filled in the same manner as appointments are made.

While proceedings are actually in progress, the jointly appointed members shall receive an allowance to be fixed by agreement between the Contracting Parties and paid by them in equal shares. Each Party, however, shall fix and pay the allowance of the member of the Commission appointed by it.

The general expenses of the Commission shall be shared equally between the two Parties.

The Commission shall be formed within six months from the exchange of the ratifications of the Treaty of Neutrality, Conciliation, and Judicial Settlement, of which the present Protocol forms for all purposes an integral part; it shall meet at the place selected by its President.

Should the members to be appointed jointly not have been appointed within six months from the date of the exchange of the ratifications of the aforesaid Treaty, or,

susdit, ou, en cas de remplacement, dans le délai de trois mois à partir de la date de la vacance du poste, il sera procédé aux nominations conformément à l'article 45 de la Convention de la Haye pour le règlement pacifique des conflits internationaux du 18 octobre 1907.

ART. 2. Sauf convention contraire, la procédure de conciliation sera réglée par la Convention de la Haye pour le règlement pacifique des conflits internationaux du 18 octobre 1907.

ART. 3. La Commission de conciliation pourra être saisie par une seule des Parties, laquelle notifiera sa requête au Président de la Commission et à l'autre Partie. La Commission pourra toutefois offrir elle-même ses offices si son Président et deux de ses membres y consentent.

Les Parties contractantes s'engagent à faciliter dans la plus large mesure possible, et sous tous les rapports, les travaux de la Commission, et plus particulièrement à user de tous les moyens dont elles disposent, conformément aux législations respectives, pour saisir la dite Commission de la même compétence de leurs Tribunaux Suprêmes, en tout ce qui concerne la citation et l'audition des témoins et des experts, ainsi que les enquêtes sur les lieux.

ART. 4. La Commission de conciliation aura pour tâche d'examiner les questions particulières qui lui seront soumises, et d'établir les résultats de son enquête dans un rapport ad hoc destiné à éclaircir les questions de fait, facilitant ainsi la solution du différend. Dans son rapport, la Commission précisera les points en litige et fera suivre à son exposé les recomman-

in the case of a vacancy, within three months from the occurrence of the vacancy, the appointments shall be made as provided in Article 45 of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 2. Except as may be otherwise agreed, the conciliation proceedings shall be governed by the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 3. A question may be submitted to the Conciliation Commission by either of the Parties, in which case that Party shall give notice of its application to the President of the Commission and to the other Party. The Commission may, however, itself offer its services, if its President and two of its members agree thereto.

The Contracting Parties undertake to facilitate the proceedings of the Commission as largely as possible in every respect, and in particular to use all the means at their disposal, under their respective laws, to confer upon the Commission the same powers as are enjoyed by their Supreme Courts in all matters relating to the summoning and hearing of witnesses and experts and the holding of local inquiries.

ART. 4. It shall be the task of the Conciliation Commission to examine the specific questions laid before it and to embody its findings in an *ad hoc* report, designed to elucidate the facts and thus facilitate the settlement of the dispute. In its report the Commission shall determine the points in dispute, and its statement of the case shall be followed by recommendations

dations susceptibles d'obtenir un accord entre les Parties.

Le rapport devra être présenté dans les six mois à partir du jour où la Commission aura été saisie du différend, à moins que les Parties contractantes ne décident d'abréger ou de proroger ce délai. Le rapport devra être rédigé en trois exemplaires, dont deux à remettre aux Parties et le troisième à être conservé dans les archives de la Commission.

La Commission fixera le délai dans lequel les Parties devront se prononcer à l'égard de ces recommandations, aussi bien que celui dans lequel elles pourront soumettre le différend à un règlement judiciaire si la procédure de conciliation n'avait pas abouti. Ces deux délais ne pourront toutefois être supérieurs à six mois le premier et à trois le second.

Le rapport de la Commission n'aura pas le caractère d'une sentence définitive et obligatoire, ni en ce qui concerne l'exposition des faits, ni en ce qui concerne les questions de droit.

ART. 5. Si les Parties n'acceptent pas les recommandations de la Commission de conciliation, chacune d'Elles pourra, dans le délai fixé par cette dernière, demander que le différend soit soumis à la Cour Permanente de Justice Internationale.

Dans le cas où, de l'avis de la Cour, le différend ne serait pas d'ordre juridique, les Parties conviennent qu'il sera tranché *ex aequo et bono*.

ART. 6. Les Parties contractantes pourront toutefois s'accorder de soumettre tout différend à un Tribunal arbitral constitué conformément aux articles 55 et suivants de la Convention pour le

calculated to bring about an agreement between the Parties.

The report must be presented within six months from the day on which the dispute was laid before the Commission, unless the Contracting Parties decide to reduce or extend this time-limit. It shall be drawn up in three copies, two to be delivered to the Parties and the third to be kept in the files of the Commission.

The Commission shall lay down a time-limit within which the Parties must come to a decision in regard to its recommendations, and a time-limit within which they may submit the dispute for judicial settlement should the conciliation proceedings not have been successful. The first of these two time-limits, however, may not exceed six months, nor the second three months.

The report of the Commission shall not bear the character of a final and binding award, either as regards the facts as set forth or as regards the questions of law.

ART. 5. If the Parties do not accept the recommendations of the Conciliation Commission, either of them may, within the time-limit laid down by the Commission, ask that the dispute be referred to the Permanent Court of International Justice.

If, in the view of the Court, the dispute is not a legal one, the Parties agree that it shall be settled *ex aequo et bono*.

ART. 6. The Contracting Parties may nevertheless agree to refer any dispute to an Arbitral Tribunal constituted in accordance with Articles 55 *et seqq.* of the Convention of October 18, 1907, for the

règlement pacifique des conflits internationaux de 18 octobre 1907 ou conformément à tout autre accord existant entre Elles.

ART. 7. Les Parties contractantes, se conformant aux dispositions du Statut et du Règlement de la Cour Permanente de Justice Internationale établiront un compromis déterminant l'objet du différend et la compétence spéciale attribuée au Tribunal, ainsi que toutes autres conditions arrêtées entre Elles.

Le compromis sera établi par échange de notes entre les Gouvernements des deux Parties contractantes, et sera interprété dans tous ses points par la Cour de Justice.

Si le compromis n'est pas arrêté dans les trois mois à partir du jour où la demande de règlement judiciaire aura été notifié à une des deux Parties, chacune d'Elles pourra saisir par voie de simple requête la Cour de Justice.

ART. 8. L'arrêt rendu par la Cour permanente de Justice Internationale sera exécuté de bonne foi par les Parties.

Durant le cours de la procédure de conciliation ou de la procédure judiciaire, les Parties contractantes s'abstiendront, autant que possible, de toute mesure susceptible de produire une répercussion préjudiciable à l'acceptation des propositions de la Commission de conciliation ou à l'exécution de l'arrêt de la Cour Permanente de Justice Internationale.

ART. 9. Si une procédure de conciliation ou une procédure judiciaire est pendante lors de l'expiration du traité de neutralité, de conciliation et de règlement ju-

Pacific Settlement of International Disputes, or in accordance with any other agreement existing between them.

ART. 7. The Contracting Parties shall, in conformity with the provisions of the Statute and Rules of the Permanent Court of International Justice, establish an arbitral agreement defining the subject of the dispute and the special jurisdiction assigned to the Tribunal, together with any other conditions upon which they may have agreed.

The arbitral agreement shall be established by an exchange of notes between the Governments of the two Contracting Parties, and shall be interpreted in all points by the Court of Justice.

If the arbitral agreement has not been established within three months from the date on which the request for a judicial settlement has been made known to one of the two Parties, either of them may refer the matter to the Court of Justice by a simple application.

ART. 8. The decision of the Permanent Court of International Justice shall be carried out by the Parties in good faith.

While the conciliation or judicial proceedings are in progress, the Contracting Parties shall as far as possible refrain from any measures that might have a prejudicial influence on the acceptance of the proposals of the Conciliation Commission or on the execution of the decision of the Permanent Court of International Justice.

ART. 9. If conciliation or judicial proceedings are pending when the treaty of neutrality, conciliation, and judicial settlement expires, they shall take their course

diciaire, elle suivra son cours conformément aux dispositions du présent Protocole ou de toute autre convention que les Parties contractantes auraient convenu de lui substituer.

Fait à Rome en double exemplaire le 30 mai mil neuf cent vingt-huit.

in accordance with the provisions of the present Protocol or of any other convention that the Contracting Parties may have agreed to substitute therefor.

Done at Rome in duplicate on May 30, one thousand nine hundred and twenty-eight.

#### PERMANENT COMMISSION OF INVESTIGATION

No information available.

### No. 106

#### FINLAND-SPAIN: TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Helsingfors May 31, 1928; ratifications exchanged November 26, 1928.

Original text and English translation from League of Nations, *Treaty Series*, LXXXII, 230-241.

(Translation)

Le Président de la République de Finlande et Sa Majesté le Roi d'Espagne, animés du désir de resserrer les liens d'amitié qui existent entre la Finlande et l'Espagne et de résoudre, selon les principes les plus élevés du droit international public, les différends qui viendraient à s'élever entre les deux pays, ont résolu de conclure à cet effet un Traité et ont désigné leurs plénipotentiaires, à savoir:

Le Président de la République de Finlande:

Monsieur Hj. J. Procopé, ministre des Affaires étrangères; et

Sa Majesté le Roi d'Espagne:

Monsieur Manuel Alonso de Avila y Bernabeu, envoyé extraordinaire et ministre plénipotentiaire d'Espagne à Helsinki;

Lesquels, après s'être communiqué leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

The President of the Finnish Republic and His Majesty the King of Spain, being desirous of strengthening the ties of friendship between Finland and Spain, and of deciding in accordance with the highest principles of international law any dispute which may arise between the two countries, have resolved to conclude a treaty with that object and have appointed as their Plenipotentiaries:

The President of the Finnish Republic:

M. Hj. J. Procopé, Minister for Foreign Affairs; and

His Majesty the King of Spain:

M. Manuel Alonso de Avila y Bernabeu, Envoy Extraordinary and Minister Plenipotentiary of Spain at Helsingfors;

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1<sup>er</sup>. Les Hautes Parties contractantes s'engagent réciproquement à régler par voie pacifique et d'après les méthodes prévues par le présent traité, tous les litiges ou conflits, de quelque nature qu'ils soient, qui viendraient à s'élever entre la Finlande et l'Espagne et qui n'auraient pu être résolus par les procédés diplomatiques ordinaires.

#### PARTIE I<sup>ère</sup>

ART. 2. Tous les litiges entre les Hautes Parties contractantes, de quelque nature qu'ils soient, au sujet desquels les Parties se contesteraient réciproquement un droit et qui n'auraient pu être réglés à l'amiable par les procédés diplomatiques ordinaires, seront soumis pour jugement soit à un tribunal arbitral, soit à la Cour permanente de Justice internationale. Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres conventions en vigueur entre les Hautes Parties contractantes, seront réglées conformément aux dispositions de ces conventions.

ART. 3. S'il s'agit d'une contestation dont l'objet d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux, cette Partie pourra s'opposer à ce qu'elle soit soumise à la procédure prévue par le présent traité avant qu'un jugement définitif ait été rendu, dans un délai raisonnable, par l'autorité judiciaire compétente.

ART. 4. Avant d'être soumis à la procédure judiciaire prescrite à l'article 2 du présent traité, le différend pourra être, d'un commun accord entre les Parties, soumis aux fins de conciliation à une commission internationale permanente,

ARTICLE 1. The High Contracting Parties reciprocally undertake to settle amicably and in accordance with the methods provided for in the present Treaty any disputes or conflicts, of any nature whatsoever, which may arise between Finland and Spain and which it may not have been possible to settle by the normal methods of diplomacy.

#### PART I

ART. 2. All disputes of every kind between the High Contracting Parties, with regard to which the Parties are in conflict as to their respective rights and which it may not have been possible to settle amicably by the normal methods of diplomacy shall be submitted for decision to an arbitral tribunal or to the Permanent Court of International Justice. Disputes for the settlement of which a special procedure is laid down in other conventions in force between the High Contracting Parties shall be settled in conformity with the provisions of those conventions.

ART. 3. In the case of a dispute the occasion of which, according to the municipal law of one of the Parties, falls within the competence of the national courts, such Party may require that the dispute shall not be submitted to the procedure laid down in the present Treaty until a judgment with final effect has been pronounced within a reasonable time by the competent judicial authority.

ART. 4. Before any resort is made to the judicial procedure prescribed in Article 2 of the present Treaty, the dispute may, by agreement between the Parties be submitted, with a view to amicable settlement, to a permanent inter-

dite Commission permanente de conciliation, constituée conformément au présent traité.

ART. 5. La Commission permanente de conciliation sera composée de cinq membres. Les Parties contractantes nommeront, chacune, un commissaire à leur gré et désigneront, d'un commun accord, les trois autres et, parmi des derniers, le président de la commission. Ces trois commissaires ne devront, ni être ressortissants des Parties contractantes, ni avoir leur domicile sur leur territoire, ou se trouver à leur service. Ils devront être tous trois de nationalité différente.

Les commissaires seront nommés pour trois ans. Si, à l'expiration du mandat d'un membre de la Commission, il n'est pas pourvu à son remplacement, son mandat est censé renouvelé pour une période de trois ans; les Parties se réservent toutefois de transférer, à l'expiration du terme de trois ans, les fonctions du président à un autre des membres de la commission désigné en commun.

Un membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part à l'examen du différend jusqu'à ce que la procédure soit terminée, nonobstant le fait que son remplaçant aurait été désigné.

En cas de décès ou de retraite de l'un des membres de la Commission de conciliation, il devra être pourvu à son remplacement pour le reste de la durée de son mandat, si possible dans les trois mois qui suivront et, en tout cas, aussitôt qu'un différend aura été soumis à la Commission.

Au cas où l'un des membres de la Commission de conciliation désignés en commun par les Parties contractantes serait empêché mo-

national commission, styled the Permanent Conciliation Commission, constituted in accordance with the present Treaty.

ART. 5. The Permanent Conciliation Commission shall be composed of five members. The Contracting Parties shall each appoint a commissioner of its own choosing, and shall appoint by common agreement the three other commissioners and, from among the latter, the President of the Commission. These three commissioners may not be nationals of the Contracting Parties, nor may they have their domicile in the territory or be in the service of the Contracting Parties. They must all three be of different nationalities.

The commissioners shall be appointed for three years. If upon expiry of the term of office of a member of the Commission no arrangement has been made for his replacement, his term of office shall be deemed to be renewed for a period of three years. Nevertheless, the Parties reserve the right, on the expiry of the term of three years, to transfer the functions of President to another of the members of the Commission appointed by common agreement.

Any member whose term of office expires while proceedings are still in progress shall continue to take part in the examination of the dispute until the close of such proceedings, even if his successor has been appointed.

Vacancies which may occur as the result of the death or retirement of any member of the Conciliation Commission shall be filled for the remainder of the term of office of such member, if possible within the following three months, and in any case as soon as a dispute is submitted to the Commission.



mentanément de prendre part aux travaux de la Commission par suite de maladie ou toute autre circonstance, les Parties s'entendront pour désigner un suppléant, qui siégera temporairement à sa place. Si la désignation de ce suppléant n'intervient pas dans un délai de trois mois, à compter de la vacance temporaire du siège, il sera procédé conformément à l'article 6 du présent traité.

ART. 6. La Commission permanente de conciliation sera constituée dans les six mois qui suivront l'échange des ratifications du présent traité.

1 Si la nomination des membres à désigner en commun n'intervenait pas dans ledit délai ou, en cas de remplacement, dans les trois mois, à compter de la vacance du siège, elle sera confiée à une Puissance tierce, désignée de commun accord par les Parties. Si l'accord ne s'établit pas à ce sujet, chaque Partie désignera une Puissance différente et les nominations seront faites de concert par les Puissances ainsi désignées. Et si, dans un délai de deux mois, ces deux Puissances n'ont pu tomber d'accord, chacune d'elles présentera des candidats en nombre égal aux membres à désigner. Le sort déterminera lesquels des candidats ainsi présentés seront admis.

ART. 7. La Commission permanente de conciliation sera saisie par voie de requête adressée au président par les deux Parties agissant d'un commun accord.

Should one of the members of the Conciliation Commission appointed by common agreement by the Contracting Parties be temporarily prevented by illness or any other cause from taking part in the Commission's work, the Parties shall agree to appoint a substitute to take his place for the time being. If the appointment of this substitute is not made within three months from the time when the seat became temporarily vacant, the procedure laid down in Article 6 of the present Treaty shall be applicable.

ART. 6. The Permanent Conciliation Commission shall be constituted within a period of six months reckoned from the exchange of ratifications of the present Treaty.

If the nomination of the members to be appointed jointly should not have taken place within the said period or, in the case of the filling of a vacancy, within three months from the time when the seat falls vacant, such nomination shall be entrusted to a third Power designated by the Parties by common agreement. Should no agreement be reached on this subject, each Party shall designate a different Power and the nominations shall be made jointly by the Powers thus designated. If within two months these two Powers have not found it possible to agree, they shall each submit as many candidates as there are members to be appointed; the choice of the candidates thus submitted shall be determined by lot.

ART. 7. The Permanent Conciliation Commission shall be informed by means of a request addressed to the President by the two Parties acting in agreement.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la commission de procéder à toutes mesures propres à conduire à une conciliation.

ART. 8. Dans le délai de quinze jours à partir de la date où la commission aura été saisie du différend, chacune des Parties pourra, pour l'examen de ce différend, remplacer le membre permanent désigné par elle par une personne possédant une compétence spéciale dans la matière. La Partie qui voudrait user de ce droit en avisera immédiatement l'autre Partie; celle-ci aura la faculté d'user du même droit dans un délai de quinze jours à partir de la date où l'avis lui sera parvenu.

Chaque Partie se réserve de nommer immédiatement un suppléant pour remplacer temporairement le membre permanent désigné par elle qui, par suite de maladie ou de toute autre circonstance, se trouverait momentanément empêché de prendre part aux travaux de la commission.

ART. 9. La Commission de conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

À la fin de ses travaux, la commission dressera un procès-verbal constatant, suivant le cas, soit que les Parties se sont arrangées et, s'il y a lieu, les conditions de l'ar-

The request, after having given a summary account of the subject of the dispute, shall contain an invitation to the Commission to take all the necessary measures with a view to arriving at an amicable settlement.

ART. 8. Within fifteen days from the date on which the dispute shall have been brought before the Commission, either Party may, for the examination of the particular dispute, replace the permanent member whom it has appointed by a person possessing special competence in the matter. The Party making use of this right shall immediately inform the other Party. The latter shall be entitled to take similar action within fifteen days from the date on which it shall have received notification.

Each of the Parties reserves the right to appoint immediately a substitute to replace for the time being any permanent member appointed by it who may be temporarily prevented by illness or any other cause from taking part in the work of the Commission.

ART. 9. The task of the Conciliation Commission shall be to elucidate questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise and to endeavour to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of settlement which seem suitable to it and lay down a period within which they are to make their decision.

At the close of its proceedings, the Commission shall draw up a report stating, as the case may be, either that the Parties have come to an agreement and, if need be,

rangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la commission devront, à moins que les Parties n'en conviennent différemment, être terminés dans un délai de six mois, à compter du jour où la commission aura été saisie du litige.

Si les Parties n'ont pas été conciliées, la commission pourra, à moins que les deux commissaires librement nommés par les Parties ne s'y opposent, ordonner, avant même que la Cour permanente de Justice internationale ou le Tribunal arbitral saisi du différend ait statué définitivement, la publication d'un rapport où sera consigné l'avis de chacun des membres de la commission.

ART. 10. Sauf une stipulation spéciale contraire, la commission de conciliation réglera elle-même sa procédure, qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du titre III (Commission internationale d'enquête) de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 11. La Commission de conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son président.

ART. 12. Les travaux de la Commission de conciliation ne sont publics qu'en vertu d'une décision prise par la commission avec l'assentiment des Parties.

the terms of the agreement, or that it has been impossible to effect a settlement.

The proceedings of the Commission must, unless the Parties agree otherwise, be terminated within six months from the day on which the Commission was first notified of the dispute.

If a settlement has not been effected between the Parties, the Commission may, unless the two Commissioners freely appointed by the Parties oppose this procedure, order a report to be published setting forth the opinion of each of the members of the Commission, even before the Permanent Court of International Justice or the arbitral tribunal notified of the dispute has given a final decision.

ART. 10. Failing any special provision to the contrary, the Conciliation Commission shall lay down its own procedure, which in any case must provide for both Parties being heard. In regard to enquiries, the Commission, unless it unanimously decides otherwise, shall act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 11. The Conciliation Commission shall meet, in the absence of agreement by the Parties to the contrary, at a place selected by its President.

ART. 12. The proceedings of the Conciliation Commission shall not be public, except when a decision to that effect has been taken by the Commission with the consent of the Parties.

ART. 13. Les Parties seront représentées auprès de la Commission de conciliation par des agents ayant mission de servir d'intermédiaires entre elles et la commission: elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet, et demander l'audition de toutes personnes dont le témoignage leur paraîtrait utile.

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties, ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur gouvernement.

ART. 14. Sauf disposition contraire du présent traité, les décisions de la Commission de conciliation seront prises à la majorité des voix.

ART. 15. Les Parties contractantes s'engagent à faciliter les travaux de la Commission de conciliation et, en particulier, à lui fournir, dans la plus large mesure possible, tous documents et informations utiles, ainsi qu'à user des moyens dont elles disposent pour lui permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

ART. 16. Pendant la durée des travaux de la Commission de conciliation, chacun des commissaires recevra une indemnité dont le montant sera arrêté d'un commun accord entre les Parties contractantes.

Chaque gouvernement supportera ses propres frais et une part égale des frais communs de la commission, les indemnités prévues au premier alinéa étant comprises parmi ces frais communs.

ART. 13. The Parties shall be represented before the Conciliation Commission by agents whose duty it shall be to act as intermediaries between them and the Commission. They may, moreover, be assisted by counsel and experts appointed by them for that purpose and they may request that all persons whose evidence appears to them useful should be heard.

The Commission, on its side, shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties as well as from all persons it may think useful to summon with the consent of their Government.

ART. 14. Unless otherwise provided in the present Treaty, the decisions of the Conciliation Commission shall be taken by a majority vote.

ART. 15. The Contracting Parties undertake to facilitate the work of the Conciliation Commission and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to enable it to proceed in their territory and in accordance with their law to the summoning and hearing of witnesses or experts and to visit the localities in question.

ART. 16. During the proceedings of the Conciliation Commission, each commissioner shall receive emoluments, the amount of which shall be fixed by agreement between the Contracting Parties.

Each Government shall pay its own expenses and shall pay an equal share of the joint expenses of the Commission, the emoluments provided for in paragraph 1 being included in these joint expenses.

ART. 17. A défaut de conciliation devant la Commission permanente de conciliation, la contestation sera soumise soit à un Tribunal arbitral, soit à la Cour Permanente de Justice internationale, suivant les stipulations de l'article 2 du présent traité.

En ce cas, comme dans celui où il n'y aurait pas eu recours préalable à la Commission permanente de conciliation, les Parties établiront de commun accord le compromis déferant le litige à la Cour permanente de Justice internationale ou désignant des arbitres. Le compromis déterminera nettement l'objet du différend, les compétences particulières qui pourraient être dévolues à la Cour permanente de Justice internationale ou au Tribunal arbitral, ainsi que toutes autres conditions arrêtées entre les Parties. Il sera établi par échange de notes entre les deux gouvernements.

La Cour permanente de Justice internationale chargée de statuer sur le différend ou le Tribunal arbitral désigné aux mêmes fins, auront respectivement compétence pour interpréter les termes du compromis.

Si le compromis n'est pas arrêté dans les trois mois à compter du jour où l'une des Parties aura été saisie de la demande aux fins de règlement judiciaire, chaque Partie pourra, après préavis d'un mois, porter directement, par voie de requête, la contestation devant la Cour permanente de Justice internationale.

Au surplus la procédure applicable sera celle prévue par le Statut de la Cour permanente de Justice internationale ou, en cas de recours à un Tribunal arbitral, celle prévue par la Convention de La Haye du 18 octobre 1907 pour le règlement

ART. 17. In the event of no amicable agreement being reached before the Permanent Conciliation Commission, the dispute shall be submitted either to an Arbitral Tribunal or to the Permanent Court of International Justice, as provided in Article 2 of the present Treaty.

In this case, and also when there has been no previous recourse to the Permanent Conciliation Commission, the Parties shall jointly draw up the special agreement referring the dispute to the Permanent Court of International Justice or appointing arbitrators. The aforesaid agreement shall clearly state the subject of the dispute, the particular competence that might devolve upon the Permanent Court of International Justice or upon the Arbitral Tribunal and any other conditions arranged between the Parties. This agreement shall be constituted by an exchange of notes between the two Governments.

The Permanent Court of International Justice, when requested to render a decision on the dispute, or the Arbitral Tribunal, when appointed for the same purpose, shall respectively be competent to interpret the terms of the special agreement.

If the special agreement has not been drawn up within three months from the day on which one of the Parties was requested to submit the matter for judicial settlement, either Party may on the expiry of one month's notice, bring the question direct before the Permanent Court of International Justice by a simple application.

The procedure applicable shall be that laid down by the Statute of the Permanent Court of International Justice or, in the case of recourse to an Arbitral Tribunal,

pacifique des conflits internationaux.

that laid down by the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

## PARTIE II

ART. 18. Toutes questions sur lesquelles les gouvernements des deux Hautes Parties contractantes seraient divisés sans pouvoir les résoudre à l'amiable par les procédés diplomatiques ordinaires et dont la solution ne pourrait être recherchée par un jugement, ainsi qu'il est prévu par l'article 2 du présent traité, et pour lesquelles une procédure de règlement ne serait pas déjà prévue par un traité ou convention en vigueur entre les Parties seront soumises à la Commission permanente de conciliation.

A défaut d'accord entre les Parties sur la requête à présenter à la commission, l'un ou l'autre d'elles aura la faculté de soumettre directement, après préavis d'un mois, la question à la dite commission.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci, sans délai, à la Partie adverse.

La procédure prévue par les articles 7, alinéa 2, et 8 à 16 du présent traité sera applicable.

ART. 19. Si les Parties n'ont pu être conciliées, le conflit sera, à la requête de l'une ou de l'autre des Parties, soumis pour décision à un tribunal arbitral ayant le pouvoir de statuer *ex aequo et bono*.

Ce tribunal sera, s'il n'en est convenu autrement, composé de cinq membres désignés suivant la méthode prévue aux articles 5 et 6 du présent traité pour la constitution de la Commission de conciliation.

## PART II

ART. 18. All questions on which the Governments of the two High Contracting Parties may differ without being able to reach an amicable solution by the normal methods of diplomacy, and which could not be submitted for an award as provided in Article 2 of the present Treaty, and for the settlement of which no procedure has been provided by any Treaty or Convention in force between the Parties, shall be submitted to the Permanent Conciliation Commission.

Failing an agreement between the Parties on the request to be made to the Commission, either Party shall be entitled to submit the question direct to the said Commission on the expiry of one month's notice.

Should the request be preferred by one Party only, such Party shall notify such request forthwith to the other Party.

The procedure laid down in paragraph 2 of Article 7 and in Articles 8 to 16 of the present Treaty shall be applicable.

ART. 19. In the event of no agreement being reached between the Parties, the dispute shall, at the request of either Party, be submitted for decision to an Arbitral Tribunal with powers to decide the matter *ex aequo et bono*.

This Tribunal shall, unless otherwise agreed, consist of five members appointed according to the method laid down in Articles 5 and 6 of the present Treaty for the constitution of the Conciliation Commission.

Le Tribunal arbitral, quel qu'il soit, aura les pouvoirs d'amiable compositeur et dictera un règlement obligatoire pour les Parties.

This Arbitral Tribunal, whatever its composition, shall act as a special referee (*amiable compositeur*) and shall draw up a settlement which shall be binding upon the Parties.

ART. 20. Lorsqu'il y aura lieu à arbitrage entre elles, les Parties contractantes s'engagent à conclure, dans un délai de six mois à compter du jour où l'une des Parties aura adressé à l'autre la demande d'arbitrage, un compromis spécial concernant l'objet du conflit ainsi que les modalités de la procédure.

ART. 20. Should recourse be had to arbitration, the Contracting Parties undertake to conclude, within six months from the day on which one of the Parties shall have addressed to the other a request for arbitration, a special agreement concerning the subject of the dispute and the methods of procedure.

Si ce compromis ne peut être conclu dans le délai prévu, l'une ou l'autre des Parties aura le droit de saisir le tribunal constitué en conformité de l'article 19 par voie de simple requête. Dans ce cas, le tribunal arbitral réglera lui-même la procédure.

If this agreement cannot be concluded within the time stipulated, either Party shall have the right to bring the question before the Tribunal constituted under Article 19 by a simple application. In such case the Arbitral Tribunal shall itself settle the procedure.

#### DISPOSITIONS GÉNÉRALES

#### GENERAL PROVISIONS

ART. 21. Si la Cour permanente de Justice internationale ou le Tribunal arbitral établissait qu'une décision d'une instance judiciaire ou de toute autre autorité relevant de l'une des Parties contractantes se trouve entièrement ou partiellement en opposition avec le droit des gens et si le droit constitutionnel de cette Partie ne permettait pas ou ne permettait qu'imparfaitement d'effacer par voie administrative les conséquences de la décision dont il s'agit, la sentence judiciaire ou arbitrale déterminerait la nature et l'étendue de la réparation à accorder à la Partie lésée.

ART. 21. Should the Permanent Court of International Justice or the Arbitral Tribunal find that a decision of a court of law or any other authority of either of the Contracting Parties is wholly or in part contrary to international law, and if the constitutional law of that Party does not permit or only partially permits the consequences of the decision in question to be annulled by administrative action, the judicial decision or arbitral award should indicate the nature and extent of the compensation to be granted to the injured Party.

ART. 22. Durant la procédure de conciliation, la procédure judiciaire ou la procédure arbitrale, les Parties contractantes s'abstiendront de toute mesure pouvant avoir une répercussion préjudiciable à l'accep-

ART. 22. During the course of proceedings of conciliation, judicial settlement or arbitration, the Contracting Parties shall abstain from all measures likely to prejudice the acceptance of the proposals of the

tation des propositions de la Commission de conciliation ou à l'exécution de l'arrêt de la Cour permanente de Justice internationale ou de la sentence du Tribunal arbitral. A cet effet, la Commission de conciliation, la Cour de Justice ou le Tribunal arbitral ordonneront, le cas échéant, quelles mesures provisoires doivent être prises.

ART. 23. Les contestations qui surgiraient au sujet de l'interprétation ou de l'exécution du présent traité seront, sauf accord contraire, soumises directement à la Cour permanente de Justice internationale par voie de simple requête.

ART. 24. Le présent traité sera ratifié. Les instruments de ratification en seront échangés à Helsinki dans le plus bref délai possible.

Le présent traité entrera en vigueur à la date de l'échange des ratifications et aura une durée de dix ans à partir de cette date. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il sera considéré comme renouvelé pour une période de dix années, et ainsi de suite.

Si lors de l'expiration du présent traité, une procédure de conciliation, de règlement judiciaire ou d'arbitrage se trouve pendante, elle suivra son cours jusqu'à son achèvement, conformément aux stipulations du présent traité.

En foi de quoi les Plénipotentiaires susnommés ont signé le présent traité et y ont apposé leurs cachets.

Fait à Helsinki, en double exemplaire, le 31 mai 1928.

Hj. J. Procopé  
M. Alonso de Avila

Conciliation Commission or the execution of the judgment of the Permanent Court of International Justice or the award of the Arbitral Tribunal. For this purpose, the Conciliation Commission, the Court of Justice and the Arbitral Tribunal shall, if necessary, lay down the provisional measures to be adopted.

ART. 23. Any disputes arising as to the interpretation or execution of the present Treaty shall, in the absence of any agreement to the contrary, be submitted direct to the Permanent Court of International Justice by a simple application.

ART. 24. The present Treaty shall be ratified and the instruments of ratifications shall be exchanged at Helsingfors as soon as possible.

The present Treaty shall come into force immediately on the exchange of ratifications and shall remain in force for ten years from that date. Unless denounced six months before the expiration of that period, it shall be regarded as renewed for a period of ten years, and similarly thereafter.

If, at the time of expiration of the present Treaty, proceedings of conciliation, judicial settlement or arbitration are pending, they shall pursue their course until their completion in accordance with the stipulations of the present Treaty.

In faith whereof the above-named Plenipotentiaries have signed the present Treaty and have thereunto affixed their seals.

Done in duplicate at Helsingfors, this thirty-first day of May, 1928.

Hj. J. Procopé  
M. Alonso de Avila

#### COMMISSION OF CONCILIATION

No information available.



## No. 107

FINLAND-THE UNITED STATES OF AMERICA:  
TREATY OF INVESTIGATION

Signed at Washington June 7, 1928; ratifications exchanged January 14, 1929.

Original text from United States of America, *Treaty Series*, No. 769.<sup>1</sup>

The President of the United States of America and the President of the Republic of Finland, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their Plenipotentiaries:

The President of the United States of America,  
Mr. Frank B. Kellogg, Secretary of State of the United States;

The President of the Republic of Finland,

Mr. L. Aström, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Finland to the United States of America;

Who, after having communicated to each other their respective full powers, found to be in proper form, have agreed upon and concluded the following articles:

ARTICLE I. Any disputes arising between the Government of the United States of America and the Government of Finland, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the High Contracting Parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report to a permanent International Commission constituted in the manner prescribed in the next succeeding Article; and they agree not to declare war or begin hostilities during such investigation and before the report is submitted.

ART. II. The International Commission shall be composed of five members, to be appointed as follows: One member shall be chosen from each country, by the Government thereof; one member shall be chosen by each Government from some third country; the fifth member shall be chosen by common agreement between the two Governments, it being understood that he shall not be a citizen of either country. The expenses of the Commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.

ART. III. In case the High Contracting Parties shall have failed to adjust a dispute by diplomatic methods, and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the International Commission for investigation and report. The International

<sup>1</sup> See also League of Nations, *Treaty Series*, LXXXVII, 16-18.

Commission may, however, spontaneously by unanimous agreement offer its services to that effect, and in such case it shall notify both Governments and request their coöperation in the investigation.

The High Contracting Parties agree to furnish the Permanent International Commission with all the means and facilities required for its investigation and report.

The report of the Commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the High Contracting Parties shall limit or extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each Government, and the third retained by the Commission for its files.

The High Contracting Parties reserve the right to act independently on the subject matter of the dispute after the report of the Commission shall have been submitted.

ART. IV. The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof, and by Finland in accordance with its constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the English language, and hereunto affix their seals.

Done at Washington the seventh day of June in the year of our Lord one thousand nine hundred and twenty-eight.

Frank B. Kellogg  
L. Åström

#### PERMANENT COMMISSION OF INVESTIGATION

No information available.

### No. 108

#### FINLAND-THE UNITED STATES OF AMERICA: TREATY OF ARBITRATION

Signed at Washington June 7, 1928; ratifications exchanged January 14, 1929.

Original text from United States of America, *Treaty Series*, No. 768.<sup>1</sup>

The President of the United States of America and the President of the Republic of Finland

Determined to prevent so far as in their power lies any interruption in the peaceful relations that have always existed between the two nations;

<sup>1</sup> See also League of Nations, *Treaty Series*, LXXXVII, 10-12.

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them; and

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the Powers of the world;

Have decided to conclude a treaty of arbitration and for that purpose they have appointed as their respective Plenipotentiaries,

The President of the United States of America, Mr. Frank B. Kellogg, Secretary of State of the United States;

The President of the Republic of Finland, Mr. L. Aström, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Finland to the United States of America;

Who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I. All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to an appropriate commission of conciliation, and which are justifiable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of Finland in accordance with its constitutional laws.

ART. II. The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(a) is within the domestic jurisdiction of either of the High Contending Parties,

(b) involves the interests of third Parties,

(c) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine,

(d) depends upon or involves the observance of the obligations of Finland in accordance with the Covenant of the League of Nations.

ART. III. The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by Finland in accordance with its constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifica-

tions. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the English language, and hereunto affix their seals.

Done at Washington the seventh day of June in the year of our Lord one thousand nine hundred and twenty-eight.

Frank B. Kellogg  
L. Åström

### No. 109

## FINLAND-THE NETHERLANDS: TREATY OF CONCILIATION

Signed at Geneva June 9, 1928; ratifications exchanged February 8, 1929.

Original text from Netherlands, *Staatsblad*, 1929, No. 65.<sup>1</sup>

(Translation)

Sa Majesté la Reine des Pays-Bas et le Président de la République de Finlande, animés du désir de resserrer les liens d'amitié qui unissent les Pays-Bas et la Finlande, et de favoriser le règlement pacifique par voie de conciliation des différends qui pourraient naître entre les deux Pays et qui ne seraient pas résolus d'autre manière, ont résolu de conclure à cet effet un traité et ont nommé pour Leurs Plénipotentiaires, savoir:

Sa Majesté la Reine des Pays-Bas:

Jonkheer Franz Beelaerts van Blokland, Son Ministre des Affaires Etrangères;

Le Président de la République de Finlande:

Monsieur Hjalmar Johan Procopé, Ministre des Affaires Etrangères;

lesquels, après s'être communiqué leurs pleins pouvoirs respectifs, trouvés en bonne et due forme, sont convenus des dispositions suivantes:

Her Majesty the Queen of the Netherlands and the President of the Republic of Finland, being desirous of strengthening the bonds of friendship which unite the Netherlands and Finland, and of promoting the peaceful settlement by conciliation of such disputes as may arise between the two countries and as may not have been settled by any other means, have resolved to conclude a treaty for that purpose and have appointed as their Plenipotentiaries, that is to say:

Her Majesty the Queen of the Netherlands:

Jonkheer Frans Beelaerts van Blokland, Her Minister of Foreign Affairs;

The President of the Republic of Finland:

Monsieur Hjalmar Johan Procopé, Minister of Foreign Affairs;

Who, after having communicated their full powers, found in good and due form, have agreed upon the following provisions:

<sup>1</sup> See also League of Nations, *Treaty Series*, LXXXVII, 322.

**ARTICLE 1<sup>er</sup>.** Tout différend, de quelque nature qu'il soit, qui s'élèverait entre les Hautes Parties contractantes et n'aurait pu être résolu par la voie diplomatique dans un délai raisonnable et qui ne serait pas susceptible d'un règlement judiciaire ou arbitral conformément à l'article 36, alinéa 2, du Statut de la Cour permanente de Justice internationale, ou conformément à toute autre convention internationale en vigueur entre les Hautes Parties contractantes, sera soumis, à la demande d'une ou des deux Parties, à une Commission permanente de conciliation, aux fins d'examen et de rapport.

Les Hautes Parties contractantes peuvent convenir qu'un différend qui serait susceptible d'un règlement judiciaire ou arbitral, soit préalablement déferé à la procédure de conciliation. Si, dans un différend de cette nature, l'une des Parties n'accepte pas les propositions de la Commission dans un délai raisonnable, chacune d'elles pourra soumettre le différend à la Cour permanente de Justice internationale.

**ART. 2.** La Commission permanente de conciliation se compose de cinq membres.

Les Hautes Parties contractantes nomment chacune un membre à leur gré et désignent les trois autres d'un commun accord. Ces trois membres ne doivent ni être des ressortissants des Etats contractants, ni avoir leur domicile sur leur territoire ou se trouver ou s'être trouvés à leur service.

Le Président de la Commission est nommé d'un commun accord parmi les membres désignés en commun.

La Commission sera constituée dans les six mois qui suivront

**ARTICLE 1.** Any dispute, of whatever nature, which may arise between the High Contracting Parties and which it may not have been possible to settle through the diplomatic channel within a reasonable period, and which is not capable of judicial or arbitral settlement under Article 36, paragraph 2, of the Statute of the Permanent Court of International Justice, or under any other international convention in force between the High Contracting Parties, shall be submitted, at the request of either or both of the Parties, to a Permanent Conciliation Commission, which shall investigate it and report thereon.

The High Contracting Parties may agree that a dispute which is capable of judicial or arbitral settlement shall first be submitted to the procedure of conciliation. If, in a dispute of this kind, one of the Parties does not accept the proposals of the Commission within a reasonable time, either Party may submit the dispute to the Permanent Court of International Justice.

**ART. 2.** The Permanent Conciliation Commission shall be composed of five members.

Each of the High Contracting Parties shall appoint one member of its own choosing, the other three being selected by joint agreement. The latter may not be nationals of the Contracting States, nor be domiciled in their territory, nor be or have been employed in their service.

The President of the Commission shall be appointed by joint agreement from among the jointly selected members.

The Commission shall be set up within six months after the rati-

l'échange des ratifications du présent traité.

Si la nomination des membres à désigner en commun ou du président n'intervient pas dans les six mois à compter de l'échange des ratifications ou, en cas de retraite ou de décès, dans les deux mois à compter de la vacance du siège, le Président de la Confédération Suisse sera prié, au besoin par une seule des Parties, de procéder à ces nominations.

ART. 3. Les membres de la Commission sont nommés pour trois ans. Sauf accord contraire entre les Hautes Parties contractantes, ils ne pourront être révoqués pendant la durée de leur mandat. En cas de décès ou de retraite d'un membre, il devra être pourvu à son remplacement pour le reste de la durée de son mandat.

Si le mandat d'un membre désigné d'un commun accord expire sans qu'aucune des Parties s'oppose à son renouvellement, le mandat est censé renouvelé pour une nouvelle période de trois ans. De même, si, à l'expiration du mandat d'un membre désigné par l'une des Parties, cette Partie n'a pas pourvu à son remplacement, son mandat sera censé renouvelé pour trois ans.

Un membre dont le mandat expire pendant la durée d'une procédure en cours, continue à prendre part à l'examen du différend jusqu'à clôture de la procédure.

ART. 4. La Commission de conciliation déterminera son siège. Elle pourra en décider librement le transfert.

ART. 5. Dans les quinze jours qui suivent la notification d'une demande de conciliation à la Commission permanente, chacune des

fications de the present Treaty have been exchanged.

If the appointment of the members to be nominated jointly or of the President is not made within six months from the exchange of ratifications, or, in the event of resignation or death, within two months after the vacancy occurs, the President of the Swiss Confederation shall be requested, if necessary by one of the Parties only, to make these appointments.

ART. 3. The members of the Commission shall be appointed for three years. Their appointment shall not be revoked during their term of office unless the High Contracting Parties agree otherwise. In the event of the death or resignation of a member, arrangements shall be made to replace him for the remainder of his term of office.

If the term of office of a member selected by joint agreement expires and neither Party is opposed to its renewal, it shall be deemed to be renewed for a further period of three years. Similarly, if, on the expiration of the term of office of a member appointed by one of the Parties, that Party has made no arrangements to replace him, his term of office shall be deemed to be renewed for three years.

A member whose term of office expires while any proceedings are pending shall continue to take part in the examination of the dispute until the proceedings come to an end.

ART. 4. The Conciliation Commission shall fix its own meeting place and shall be at liberty to change it.

ART. 5. Within the fortnight following the notification of a request for conciliation to the Permanent Commission, either of the

Hautes Parties contractantes pourra remplacer le membre librement désigné par elle par une personne possédant une compétence spéciale dans la matière qui fait l'objet du différend.

La Partie qui entendrait user de ce droit, en avertira immédiatement la Partie adverse; dans ce cas, celle-ci pourra user du même droit dans un délai de quinze jours à compter de la notification qu'elle a reçue.

Au cas où l'un des membres de la Commission de conciliation désignés en commun par les Parties contractantes serait momentanément empêché de prendre part aux travaux de la Commission par suite de maladie ou de toute autre circonstance, les Parties s'entendront pour désigner un suppléant s'il y a lieu, qui siégera temporairement à sa place.

Si la désignation de ce suppléant n'intervient pas dans un délai de trois mois à compter de la vacance temporaire du siège, le Président de la Confédération Suisse sera prié par les deux Parties ou l'une d'elles de le désigner.

Chaque Partie se réserve de nommer immédiatement un suppléant pour remplacer temporairement le membre permanent désigné par elle qui, par suite de maladie ou de toute autre circonstance, se trouverait momentanément empêché de prendre part aux travaux de la Commission. La Partie qui entendrait user de ce droit, en avertira immédiatement la Partie adverse.

ART. 6. La Commission de conciliation a pour tâche d'examiner tout différend qui lui serait soumis par les Hautes Parties contractantes, et de rédiger un rapport qui déterminera l'état des faits et contiendra, toutes les fois que les

High Contracting Parties may replace the member freely chosen by it by a person possessing special competence in the matter to which the dispute relates.

The Party which proposes to make use of this right shall immediately notify the opposing Party. In this case, the latter may avail itself of the same right within a fortnight after receiving the notification.

Should one of the members of the Conciliation Commission appointed jointly by the Contracting Parties be temporarily prevented from taking part in the work of the Commission as a result of illness or for any other reason, the Parties shall, if necessary, jointly select a substitute, who shall sit temporarily in his place.

If this substitute is not appointed within three months from the date upon which the temporary vacancy occurred, both Parties or either Party shall request the President of the Swiss Confederation to make the appointment.

Each Party reserves the right immediately to appoint a substitute to replace temporarily the permanent member appointed by that Party, should he be temporarily prevented from taking part in the work of the Commission as a result of illness or for any other reason. The Party proposing to avail itself of this right shall immediately notify the opposing Party.

ART. 6. The task of the Conciliation Commission shall be to examine any dispute that may be submitted to it by the High Contracting Parties, and to draw up a report determining the facts and embodying, whenever circum-

circonstances le permettront, des propositions en vue du règlement du différend.

ART. 7. La Commission de conciliation est saisie sur requête adressée à son président par les deux Hautes Parties contractantes ou par l'une d'entre elles. Dans ce dernier cas, notification de la requête sera faite en même temps à l'autre Partie.

ART. 8. Les Hautes Parties contractantes ont le droit de nommer auprès de la Commission des agents spéciaux qui serviront, en même temps, d'intermédiaires entre elles et la Commission.

ART. 9. Les Hautes Parties contractantes s'engagent à faciliter, dans la plus large mesure possible, les travaux de la Commission et, en particulier, à user de tous les moyens dont elles disposent, d'après leur législation intérieure, pour lui permettre de procéder, sur leur territoire, à la citation et à l'audition de témoins ou d'experts ainsi qu'à des descentes sur les lieux. La Commission décidera si la production des preuves aura lieu en séance plénière ou devant un ou plusieurs de ceux parmi ses membres qui ont été désignés en commun.

ART. 10. Les délibérations de la Commission ont lieu à huis clos, à moins que la Commission, d'accord avec les Parties, n'en décide autrement.

ART. 11. La procédure devant la Commission est contradictoire.

La Commission règlera elle-même la procédure, en tenant compte, sauf décision contraire prise à l'unanimité, des dispositions contenues au titre III de la Convention de La Haye pour le règlement pacifique

stances permit, proposals for the settlement of the dispute.

ART. 7. A dispute shall be brought before the Conciliation Commission by a request addressed to its President by both High Contracting Parties or by one of them. In the latter case, the other Party shall at the same time be notified of the request.

ART. 8. The High Contracting Parties shall be entitled to appoint special agents to represent them before the Commission, who shall also serve as intermediaries between them and the Commission.

ART. 9. The High Contracting Parties undertake to give the Commission all possible assistance in its work, and, in particular, to employ all the means placed at their disposal by their domestic legislation to enable it to call and hear witnesses or experts within their territory, as well as to carry out investigations on the spot. The Commission shall decide whether evidence shall be brought forward in plenary session or before one or more of its jointly selected members.

ART. 10. The deliberations of the Commission shall be held in private, unless the Commission, in agreement with the Parties, decides otherwise.

ART. 11. In proceedings before the Commission both Parties shall be heard.

The Commission shall settle its own procedure, following, unless a unanimous decision is taken to the contrary, the provisions contained in Part III of the Hague Con-



des conflits internationaux du 18 octobre 1907.

ART. 12. Sauf disposition contraire du présent traité, les décisions de la Commission sont prises à la majorité simple des voix.

ART. 13. La Commission présentera son rapport dans les six mois à compter du jour où elle aura été saisie du différent, à moins que les Hautes Parties contractantes ne décident d'un commun accord d'abréger ou de proroger ce délai. La Commission, de son côté, a le droit de proroger ce délai une seule fois. Une fois la procédure commencée, il ne sera plus loisible aux Hautes Parties contractantes de l'abréger.

L'avis motivé des membres restés en minorité sera consigné dans le rapport.

Un exemplaire du rapport sera remis à chacune des Parties.

Le rapport n'a ni en ce qui concerne l'exposé des faits, ni en ce qui concerne les considérations juridiques, un caractère obligatoire.

A la communication du rapport, la Commission peut suggérer aux deux Parties de faire savoir, dans un délai à indiquer dans le rapport, si et dans quelle mesure elles reconnaissent comme exactes les constatations du rapport et acceptent les propositions y contenues.

Il appartient aux Parties de se mettre d'accord sur le point de savoir si le rapport sera, oui ou non, publié immédiatement. Au cas où elles ne parviendraient pas à cet accord, la Commission, de son côté, peut faire procéder, pour des raisons spéciales, à une prompte publication.

ART. 14. Pendant la durée effective de la procédure, les membres de la Commission reçoivent une indemnité dont le montant sera

vention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 12. Unless otherwise provided in the present treaty, the decisions of the Commission shall be taken by a simple majority vote.

ART. 13. The Commission shall present its report within six months from the day on which the dispute was submitted to it, unless the High Contracting Parties agree together to curtail or extend this period. The Commission itself shall be entitled to extend this period once only. When the proceedings have been begun, the High Contracting Parties shall no longer be entitled to curtail the period.

The reasoned opinion of the members who form the minority shall be embodied in the report.

A copy of the report shall be sent to each Party.

The report shall not be binding as regards either the statement of facts or the legal considerations.

When communicating the report, the Commission may suggest to the two Parties that they state, within a period to be indicated in the report, whether and to what extent they accept the statements made in the report as correct and agree to the proposals it contains.

It shall rest with the Parties to decide whether the report shall be immediately published or not. Should they be unable to agree on this point, the Commission itself may arrange for immediate publication if there are special reasons for doing so.

ART. 14. For the actual duration of the proceedings, the members of the Commission shall receive an allowance at a rate to be

arrêté entre les Hautes Parties contractantes.

Chaque Partie supporte ses propres frais et une part égale des frais de la Commission.

ART. 15. Durant le cours de la procédure de conciliation, les Hautes Parties contractantes s'abstiendront de toute mesure pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission permanente de conciliation.

ART. 16. Le présent traité sera ratifié et les instruments de ratification en seront échangés à La Haye dans le plus bref délai possible.

Le traité est conclu pour la durée de dix ans à compter de l'échange des instruments de ratification. S'il n'est pas dénoncé six mois au moins avant l'expiration de ce terme, il demeure en vigueur pour une nouvelle période de dix ans, et ainsi de suite.

Si une procédure de conciliation est pendante lors de l'expiration du présent traité, elle suivra son cours conformément aux dispositions du présent traité ou de toute autre convention que les Hautes Parties contractantes seraient convenues de lui substituer.

En foi de quoi, les Plénipotentiaires susnommés ont signé le présent traité et y ont apposé leurs cachets.

Fait, en double, à Genève, le 9 juin 1928.

Beelaerts van Blokland  
Hj. J. Procopé

fixed by arrangement between the High Contracting Parties.

Each Party shall defray its own expenses and half the expenses of the Commission.

ART. 15. During the conciliation proceedings the High Contracting Parties shall abstain from all measures which might prejudicially affect the acceptance of the proposals of the Permanent Conciliation Commission.

ART. 16. The present treaty shall be ratified, and the instruments of ratification shall be exchanged at the Hague as soon as possible.

The treaty is concluded for a period of ten years from the date of the exchange of the instruments of ratification. Unless denounced at least six months before the expiration of that term, it shall remain in force for a further period of ten years, and similarly thereafter.

If conciliation proceedings are pending at the time when the present treaty expires, they shall take their course in accordance with the provisions of the present treaty or of any other convention that the High Contracting Parties may have agreed to substitute therefor.

In witness whereof the above-named Plenipotentiaries have signed the present treaty and have thereto affixed their seals.

Done in duplicate at Geneva, June 9, 1928.

Beelaerts van Blokland  
Hj. J. Procopé

#### PERMANENT COMMISSION OF CONCILIATION

No information available.

## No. 110

## AUSTRIA-SPAIN TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Vienna June 11, 1928, ratifications exchanged March 21, 1929.

Original text from Austria, *Bundesgesetzblatt*, 1929 No 34,<sup>1</sup> English translation from League of Nations, *Treaty Series*, LXXXII, 395-407

## (Translation)

Le Président Fédéral de la République d'Autriche et Sa Majesté le Roi d'Espagne animés du désir de resserrer les liens d'amitié qui existent entre l'Autriche et l'Espagne et de résoudre, selon les principes les plus élevés du droit international public, les différends qui viendraient à s'élever entre les deux pays, ont résolu de conclure à cet effet un traité et ont désigné leurs Plénipotentiaires, à savoir

The Federal President of the Austrian Republic and His Majesty the King of Spain, being desirous of strengthening the ties of friendship existing between Austria and Spain and of settling, in accordance with the highest principles of public international law, any disputes which may arise between the two countries, have resolved to conclude a Treaty for this purpose and have appointed as their Plenipotentiaries

Le Président Fédéral de la République d'Autriche

Monseigneur Ignace Seipel, docteur en théologie, chancelier fédéral, Sa Majesté le Roi d'Espagne,

Son Excellence Monsieur Francisco Serrat y Bonastre, Son Envoyé extraordinaire et Ministre plénipotentiaire auprès de la République d'Autriche,

lesquels, après s'être fait connaître leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes

The Federal President of the Austrian Republic

Monseigneur Ignatius Seipel, Doctor of Theology, Federal Chancellor,

His Majesty the King of Spain  
His Excellency M. Francisco Serrat y Bonastre, His Envoy Extraordinary and Minister Plenipotentiary, accredited to the Austrian Republic,

Who, having communicated to each other their full powers, found in good and due form, have agreed upon the following provisions.

ARTICLE 1<sup>er</sup> Les Hautes Parties Contractantes s'engagent réciproquement à régler par voie pacifique et d'après les méthodes prévues par le présent Traité, tous les litiges ou conflits, de quelque nature qu'ils soient, qui viendraient à s'élever entre l'Autriche et l'Espagne et qui

ARTICLE 1 The High Contracting Parties reciprocally undertake to settle by pacific means and in accordance with the methods provided for in the present Treaty, all disputes or conflicts of any nature whatsoever, which may arise between Austria and Spain and which

<sup>1</sup> See also League of Nations, *Treaty Series*, LXXXVII, 394.

n'auraient pu être résolus par les procédés diplomatiques ordinaires

it may not have been possible to settle by the normal methods of diplomacy

#### PARTIE I

ART 2 Tous litiges entre les Hautes Parties Contractantes, de quelque nature qu'ils soient, au sujet desquels les Parties se contesteraient réciproquement un droit et qui n'auraient pu être réglés à l'amiable par les procédés diplomatiques ordinaires, seront soumis pour jugement soit à un tribunal arbitral, soit à la Cour Permanente de Justice Internationale. Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres conventions en vigueur entre les Hautes Parties Contractantes seront réglées conformément aux dispositions de ces conventions.

ART 3 Si l'on agit d'une contestation dont l'objet, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux, cette Partie pourra s'opposer à ce qu'elle soit soumise à la procédure prévue par le présent Traité avant qu'un jugement passe en force de chose jugée ait été rendu, dans un délai raisonnable, par l'autorité judiciaire compétente.

ART 4 Avant d'être soumis à la procédure judiciaire prescrite à l'article 2 du présent Traité le différend pourra être, d'un commun accord entre les Parties, soumis à fin de conciliation à une Commission Internationale Permanente, dite Commission Permanente de Conciliation constituée conformément au présent Traité.

ART 5 La Commission Permanente de Conciliation sera composée de 5 membres. Les Parties Contractantes nommeront, cha-

#### PART I

ART 2 All disputes of every kind between the High Contracting Parties with regard to which the Parties are in conflict as to their respective rights and which it may not have been possible to settle amicably by the normal methods of diplomacy, shall be submitted for decision to an arbitral tribunal or to the Permanent Court of International Justice. Disputes for the settlement of which a special procedure is laid down in other conventions in force between the High Contracting Parties shall be settled in conformity with the provisions of those conventions.

ART 3 In the case of a dispute the occasion of which, according to the municipal law of one of the Parties, falls within the competence of the national courts, such Party may require that the dispute shall not be submitted to the procedure laid down in the present Treaty until a judgment with final effect has been pronounced within a reasonable time by the competent judicial authority.

ART 4 Before any resort is made to the judicial procedure prescribed in Article 2 of the present Treaty, the dispute may, by agreement between the Parties, be submitted with a view to amicable settlement to a permanent international commission, styled the Permanent Conciliation Commission, constituted in accordance with the present Treaty.

ART 5 The Permanent Conciliation Commission shall be composed of five members. The Contracting Parties shall each appoint

cune, un commissaire à leur gré et désigneront, d'un commun accord, les trois autres et, parmi ces derniers, le Président de la Commission. Ces trois commissaires ne devront ni être ressortissants des Parties Contractantes, ni avoir leur domicile sur leur territoire, ou se trouver à leur service. Ils devront être tous trois de nationalité différente.

Les commissaires seront nommés pour trois ans. Si, à l'expiration du mandat d'un membre de la Commission, il n'est pas pourvu à son remplacement, son mandat est censé renouvelé pour une période de trois ans, les Parties se réservent toutefois de transférer, à l'expiration du terme de trois ans, les fonctions du Président à un autre des membres de la Commission désigné en commun.

Un membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part à l'examen du différend jusqu'à ce que la procédure soit terminée, nonobstant le fait que son remplaçant aurait été désigné.

En cas de décès ou de retraite de l'un des membres de la Commission de Conciliation, il devra être pourvu à son remplacement pour le reste de la durée de son mandat, si possible dans les trois mois qui suivront et, en tout cas, aussitôt qu'un différend aura été soumis à la Commission. Au cas où l'un des membres de la Commission de Conciliation désignés en commun par les Parties Contractantes serait momentanément empêché de prendre part aux travaux de la Commission par suite de maladie ou de toute autre circonstance, les Parties s'entendront pour désigner un suppléant, qui siègera temporairement à sa place.

a commissioner of its own choosing, and shall appoint by common agreement the three other commissioners, and from among the latter, the President of the Commission. These three commissioners may not be nationals of the Contracting Parties, nor may they have their domicile in the territory or be in the service of the Contracting Parties. They must all three be of different nationalities.

The commissioners shall be appointed for three years. If upon the expiry of the term of office of a member of the Commission no arrangement has been made for his replacement, his term of office shall be deemed to be renewed for a period of three years. Nevertheless, the Parties reserve the right, on the expiry of the term of three years, to transfer the functions of President to another of the members of the Commission appointed by common agreement.

Any member whose term of office expires while proceedings are still in progress shall continue to take part in the examination of the dispute until the close of such proceedings, even if his successor has been appointed.

Vacancies which may occur as a result of the death or retirement of any member of the Conciliation Commission shall be filled for the remainder of the term of office of such member, if possible within the following three months and in any case as soon as a dispute is submitted to the Commission. Should one of the members of the Conciliation Commission appointed by common agreement by the Contracting Parties be temporarily prevented by illness or any other cause from taking part in the Commission's work, the Parties shall agree to appoint a substitute to take his place for the time being.

Si la désignation de ce suppléant n'intervient pas dans un délai de trois mois, à compter de la vacance temporaire du siège, il sera procédé conformément à l'article 6 du présent Traité.

ART. 6. La Commission Permanente de Conciliation sera constituée dans les six mois qui suivront l'échange des ratifications du présent Traité.

Si la nomination des membres à désigner en commun n'intervenait pas dans ledit délai ou, en cas de remplacement, dans les trois mois, à compter de la vacance au siège, elle sera confiée à une puissance tierce, désignée de commun accord par les Parties. Si l'accord ne s'établit pas à ce sujet, chaque Partie désignera une Puissance différente et les nominations seront faites de concert par les Puissances ainsi désignées. Et si, dans un délai de deux mois, ces deux Puissances n'ont pu tomber d'accord, chacune d'elles présentera des candidats en nombre égal aux membres à désigner. Le sort déterminera lesquels des candidats ainsi présentés seront admis.

ART. 7. La Commission Permanente de Conciliation sera saisie par voie de requête adressée au Président par les deux Parties agissant d'un commun accord.

La requête, après avoir exposé sommairement l'objet de litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation.

ART. 8. Dans le délai de quinze jours à partir de la date où la Com-

If the appointment of this substitute is not made within three months from the time when the seat became temporarily vacant, the procedure laid down in Article 6 of the present Treaty shall be applicable.

ART. 6. The Permanent Conciliation Commission shall be constituted within a period of six months reckoned from the exchange of ratifications of the present Treaty.

If the nomination of the members to be appointed jointly should not have taken place within the said period or, in the case of the filling of a vacancy, within three months from the time when the seat falls vacant, such nomination shall be entrusted to a third Power designated by the Parties by common agreement. Should no agreement be reached on this subject, each Party shall designate a different Power and the nominations shall be made jointly by the Powers thus designated. If within two months these two Powers have not found it possible to agree, they shall each submit as many candidates as there are members to be appointed; the choice of the candidates thus submitted shall be determined by lot.

ART. 7. The Permanent Conciliation Commission shall be informed by means of a request addressed to the President by the two Parties acting in agreement.

The request, after having given a summary account of the subject of the dispute, shall contain an invitation to the Commission to take all the necessary measures with a view to arriving at an amicable settlement.

ART. 8. Within fifteen days from the date on which the dispute shall

mission aura été saisie du différend, chacune des Parties pourra, pour l'examen de ce différend, remplacer le membre permanent désigné par elle par une personne possédant une compétence spéciale dans la matière. La Partie qui voudrait user de ce droit en avisera immédiatement l'autre Partie, celle-ci aura la faculté d'user du même droit dans un délai de quinze jours à partir de la date où l'avis lui sera parvenu.

Chaque Partie se réserve de nommer immédiatement un suppléant pour remplacer temporairement le membre permanent désigné par elle qui, par suite de maladie ou de toute autre circonstance, se trouverait momentanément empêché de prendre part aux travaux de la Commission.

ART 9 La Commission de Conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

À la fin de ses travaux, la Commission dressera un procès verbal constatant, suivant le cas, soit que les Parties se sont arrangées et s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la Commission devront, à moins que les Parties n'en conviennent différemment, être terminés dans le délai de six mois, à compter du jour où la Commission aura été saisie du litige.

Si les Parties n'ont pas été conciliées, la Commission pourra, à moins que les deux commissaires librement nommés par les Parties

have been brought before the Commission either Party may, for the examination of the particular dispute, replace the permanent member whom it has appointed by a person possessing special competence in the matter. The Party desiring to make use of this right shall immediately inform the other Party. The latter shall be entitled to take similar action within fifteen days from the date on which it shall have received notification.

Each of the Parties reserves the right to appoint immediately a substitute to replace for the time being any permanent member appointed by it who may be temporarily prevented by illness or any other cause from taking part in the work of the Commission.

ART 9 The task of the Conciliation Commission shall be to elucidate questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise and to endeavour to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of settlement which seem suitable to it and lay down a period within which they are to make their decision.

At the close of its proceedings, the Commission shall draw up a report stating, as the case may be, either that the Parties have come to an agreement and, if need be, the terms of the agreement, or that it has been impossible to effect a settlement.

The proceedings of the Commission must, unless the Parties agree otherwise, be terminated within six months from the day on which the Commission was first notified of the dispute.

If a settlement has not been ef-

ne s'y opposent, ordonner, avant même que la Cour Permanente de Justice Internationale ou le Tribunal Arbitral saisi du différend ait statué définitivement, la publication d'un rapport où sera consigné l'avis de chacun des membres de la Commission

ART 10 A moins de stipulation spéciale contraire, la Commission de Conciliation réglera elle-même sa procédure qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la Commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du titre III (Commissions Internationales d'enquête) de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART 11 La Commission de Conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son Président.

ART 12 Les travaux de la Commission de Conciliation ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties.

ART 13 Les Parties seront représentées auprès de la Commission de Conciliation par des agents ayant mission de servir d'intermédiaire entre elles et la Commission, elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet, et de demander l'audition de toutes personnes dont le témoignage leur paraîtrait utile.

affected between the Parties the Commission may, unless the two Commissioners freely appointed by the Parties oppose this procedure, order a report to be published setting forth the opinion of each of the members of the Commission, even before the Permanent Court of International Justice or the arbitral tribunal notified of the dispute has given a final decision.

ART 10 Failing any special provision to the contrary, the Conciliation Commission shall lay down its own procedure, which in any case must provide for both Parties being heard. In regard to enquiries, the Commission, unless it unanimously decides otherwise, shall act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART 11 The Conciliation Commission shall meet, in the absence of an agreement by the Parties to the contrary, at a place selected by its President.

ART 12 The proceedings of the Conciliation Commission shall not be public, except when a decision to that effect has been taken by the Commission with the consent of the Parties.

ART 13 The Parties shall be represented before the Conciliation Commission by agents whose duty it shall be to act as intermediaries between them and the Commission. They may, moreover, be assisted by counsel and experts appointed by them for that purpose, and they may request that all persons whose evidence appears to them useful should be heard.



La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties, ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement

ART 14 Sauf disposition contraire du présent Traité, les décisions de la Commission de Conciliation seront prises à la majorité des voix

ART 15 Les Hautes Parties Contractantes s'engagent à faciliter les travaux de la Commission de Conciliation et, en particulier, à lui fournir, dans la plus large mesure possible, tous documents et informations utiles, ainsi qu'à user des moyens dont elles disposent pour lui permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux

ART 16 Pendant la durée des travaux de la Commission de Conciliation chacun des commissaires recevra une indemnité dont le montant sera arrêté d'un commun accord entre les Hautes Parties Contractantes

Chaque Gouvernement supportera ses propres frais et une part égale des frais communs de la Commission, les indemnités prévues à l'alinéa 1<sup>er</sup> étant comprises parmi ces frais communs

ART 17 A défaut de conciliation devant la Commission Permanente de Conciliation, la contestation sera soumise soit à un tribunal arbitral soit à la Cour Permanente de Justice Internationale, suivant les stipulations de l'article 2 du présent Traité

En ce cas, comme dans celui où il n'y aurait pas eu recours pré-

The Commission, on its side, shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties as well as from all persons it may think useful to summon with the consent of their Government

ART 14 Unless otherwise provided in the present Treaty, the decisions of the Conciliation Commission shall be taken by a majority vote

ART 15 The High Contracting Parties undertake to facilitate the work of the Conciliation Commission and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to enable it to proceed in their territory and in accordance with their law to the summoning and hearing of witnesses or experts and to visit the localities in question

ART 16 During the proceedings of the Conciliation Commission, each Commissioner shall receive emoluments, the amount of which shall be fixed by agreement between the High Contracting Parties

Each Government shall pay its own expenses and shall pay an equal share of the joint expenses of the Commission, the emoluments provided for in paragraph 1 being included in these joint expenses

ART 17 In the event of no amicable agreement being reached before the Permanent Conciliation Commission, the dispute shall be submitted either to an arbitral tribunal or to the Permanent Court of International Justice, as provided in Article 2 of the present Treaty

In this case, and also when there has been no previous recourse to

alable à la Commission Permanente de Conciliation, les Parties établiront de commun accord le compromis déferant le litige à la Cour Permanente de Justice Internationale ou désignant des arbitres. Le compromis déterminera nettement l'objet du différend, les compétences particulières qui pourraient être dévolues à la Cour Permanente de Justice Internationale ou au tribunal arbitral, ainsi que toutes autres conditions arrêtées entre les Parties. Il sera établi par échange de notes entre les deux Gouvernements.

La Cour Permanente de Justice Internationale chargée de statuer sur le différend ou le tribunal arbitral désigné aux mêmes fins, auront respectivement compétence pour interpréter les termes du compromis.

Si le compromis n'est pas arrêté dans les 3 mois à compter du jour où l'une des Parties aura été saisie de la demande aux fins de règlement judiciaire, chaque Partie pourra, après préavis d'un mois, porter directement, par voie de requête, la contestation devant la Cour Permanente de Justice Internationale.

Au surplus, la procédure applicable sera celle prévue par le statut de la Cour Permanente de Justice Internationale ou, en cas de recours à un tribunal arbitral, celle prévue par la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

## PART II

ART 18 Toutes questions sur lesquelles les Gouvernements des deux Hautes Parties Contractantes seraient divisés sans pouvoir les résoudre à l'amiable par les pro-

the Permanent Conciliation Commission, the Parties shall jointly draw up the special agreement referring the dispute to the Permanent Court of International Justice or appointing arbitrators. The aforesaid agreement shall clearly state the subject of the dispute, the particular competence that might devolve upon the Permanent Court of International Justice or upon the arbitral tribunal and any other conditions arranged between the Parties. This agreement shall be constituted by an exchange of Notes between the two Governments.

The Permanent Court of International Justice, when requested to render a decision on the dispute, or the arbitral tribunal, when appointed for the same purpose, shall respectively be competent to interpret the terms of the special agreement.

If the special agreement has not been drawn up within three months from the day on which one of the Parties was requested to submit the matter for judicial settlement, either Party may, on the expiry of one month's notice, bring the question direct before the Permanent Court of International Justice by means of a request.

The procedure applicable shall be that laid down by the Statute of the Permanent Court of International Justice or, in the case of recourse to an arbitral tribunal, that laid down by the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

## PART II

ART 18 All questions on which the Governments of the two High Contracting Parties may differ without being able to reach an amicable solution by the normal

cédés diplomatiques ordinaires, dont la solution ne pourrait être recherchée par un jugement, ainsi qu'il est prévu par l'article 2 du présent Traité, et pour lesquelles une procédure de règlement ne serait pas déjà prévue par un traité ou une convention en vigueur entre les Parties, seront soumises à la Commission Permanente de Conciliation

A défaut d'accord entre les Parties sur la requête à présenter à la Commission, l'une ou l'autre d'entre elles aura la faculté de soumettre directement, après préavis d'un mois, la question à ladite Commission

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci, sans délai, à la Partie adverse

La procédure prévue par les articles 7, alinéa 2, et 8 à 16 du présent Traité sera applicable

ART 19 Si les Parties ne peuvent être conciliées, le conflit sera, à la requête d'une seule des Parties, soumis pour décision à un tribunal arbitral qui, à défaut d'autre accord entre les Parties, sera composé de 5 membres désignés pour chaque cas particulier, suivant la méthode prévue aux articles 5 et 6 du présent Traité, en ce qui concerne la Commission de Conciliation. Ce tribunal arbitral aura, en pareil cas, les pouvoirs d'arbitre compositeur et dictera un règlement obligatoire pour les Parties

ART 20 Lorsqu'il y aura lieu à arbitrage entre elles, les Hautes Parties Contractantes s'engagent à conclure, dans un délai de trois mois à compter du jour où l'une des Parties aura adressé à l'autre la demande d'arbitrage, un com-

methods of diplomacy, and which cannot be submitted for decision as provided in Article 2 of the present Treaty, and for the settlement of which no procedure has been provided by any treaty or convention in force between the Parties, shall be referred to the Permanent Conciliation Commission

Failing agreement between the Parties on the request to be made to the Commission, either Party shall be entitled to submit the question direct to the said Commission on the expiry of one month's notice

Should the request be preferred by one Party only, such Party shall notify such request forthwith to the other Party

The procedure laid down in paragraph 2 of Article 7 and in Articles 8 to 16 of the present Treaty shall be applicable

ART 19 In the event of no agreement being reached between the Parties, the dispute shall, at the request of either Party, be submitted for decision to an arbitral tribunal consisting, in the absence of any other agreement between the Parties, of five members appointed for each individual case, according to the method laid down in Articles 5 and 6 of the present Treaty for the constitution of the Conciliation Commission. This arbitral tribunal shall, in such a case, act as a special referee and shall draw up a settlement which shall be binding upon the Parties

ART 20 Should recourse be had to arbitration, the High Contracting Parties undertake to conclude, within three months from the day on which one of the Parties shall have addressed to the other a request for arbitration, a special

promis spécial concernant l'objet du conflit ainsi que les modalités de procédure

Si ce compromis ne peut être conclu dans le délai prévu, il y sera obligatoirement suppléé par le tribunal arbitral prévu à l'article 19

agreement concerning the subject of the dispute and the methods of procedure

If this agreement cannot be concluded within the time stipulated, recourse to the arbitral tribunal provided for in Article 19 shall be obligatory

#### DISPOSITIONS GÉNÉRALES

ART 21 Si la Cour Permanente de Justice Internationale ou le Tribunal arbitral établissait qu'une décision d'une instance judiciaire ou de toute autre autorité relevant de l'une des Hautes Parties Contractantes se trouve entièrement ou partiellement en opposition avec le droit des gens et si le droit constitutionnel de cette Partie ne permettrait pas ou ne permettait qu'imparfaitement d'effacer par voie administrative les conséquences de la décision dont il s'agit, la sentence judiciaire ou arbitrale déterminerait la nature et l'étendue de la réparation à accorder à la Partie lésée

ART 22 Durant la procédure de conciliation, la procédure judiciaire ou la procédure arbitrale, les Parties Contractantes s'abstiendront de toute mesure pouvant avoir une répercussion sur l'acceptation des propositions de la Commission de Conciliation ou sur l'exécution de l'arrêt de la Cour Permanente de Justice Internationale ou de la sentence du tribunal arbitral. A cet effet la Commission de Conciliation, la Cour de Justice et le tribunal arbitral ordonneront, le cas échéant, quelles mesures provisionnelles doivent être prises

ART 23 Les contestations qui surgiraient au sujet de l'interprétation ou de l'exécution du présent Traité seront, sauf accord contraire, soumises directement à la Cour Per-

#### GENERAL PROVISIONS

ART 21 Should the Permanent Court of International Justice or the arbitral tribunal find that a decision of a court of law or any other authority of either of the High Contracting Parties is wholly or in part contrary to international law, and if the constitutional law of that Party does not permit or only partially permits the consequences of the decision in question to be annulled by administrative action, the judicial decision or arbitral award should indicate the nature and extent of the compensation to be granted to the injured Party

ART 22 During the course of proceedings of conciliation, judicial settlement or arbitration, the Contracting Parties shall abstain from all measures likely to exert any influence on the acceptance of the proposals of the Conciliation Commission or the execution of the judgment of the Permanent Court of International Justice or the award of the arbitral tribunal. For this purpose the Conciliation Commission, the Court of Justice and the arbitral tribunal shall, if necessary, lay down the provisional measures to be adopted

ART 23 Any disputes arising as to the interpretation or execution of the present Treaty shall, in the absence of any agreement to the contrary, be submitted direct to

manente de Justice Internationale  
par voie de simple requête

ART 24 Le présent Traité sera ratifié Les instruments de ratification en seront échangés à Vienne dans le plus bref délai possible

Le présent Traité entrera en vigueur à la date de l'échange des ratifications et aura une durée de dix ans à partir de cette date S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il sera considéré comme renouvelé pour une période de dix années, et ainsi de suite

Si lors de l'expiration du présent Traité, une procédure de conciliation, de règlement judiciaire ou d'arbitrage se trouve pendante, elle suivra son cours jusqu'à son achèvement, conformément aux stipulations du présent Traité

En foi de quoi, les Plénipotentiaires susnommés ont signé le présent Traité et y ont apposé leur cachet

Fait à Vienne en double exemplaire, le 11 juin 1928

Seipel  
F Serrat

the Permanent Court of International Justice by a simple application

ART 24 The present Treaty shall be ratified and the instruments of ratification shall be exchanged at Vienna as soon as possible

The present Treaty shall come into force on the date of the exchange of ratifications and shall remain in force for ten years from that date Unless denounced six months before the expiration of that period, it shall be regarded as renewed for a period of ten years, and similarly thereafter

If, at the time of the expiration of the present Treaty, proceedings of conciliation, judicial settlement or arbitration are pending they shall pursue their course until their completion in accordance with the stipulations of the present Treaty

In faith whereof the above named Plenipotentiaries have signed the present Treaty and have thereto affixed their seals

Done in duplicate at Vienna, June 11, 1928

Seipel  
F Serrat

#### EXCHANGE OF NOTES

Vienne, le 11 juin 1928  
Monsieur le Chancelier,

Au moment de procéder à la signature, en date de ce jour, du Traité de conciliation, de règlement judiciaire et d'arbitrage, je suis heureux de pouvoir Vous communiquez que le Gouvernement de Sa Majesté Catholique, désirant donner un témoignage d'amitié à l'Autriche, dans les circonstances actuelles, m'a autorisé à déclarer qu'il ne réclamera pas l'application de ce Traité aux contestations nées des faits qui sont antérieurs à sa conclusion.

Vienna, June 11, 1928  
Your Excellency,

On proceeding this day to sign the Treaty of Conciliation, Judicial Settlement and Arbitration, I am happy to inform you that His Catholic Majesty's Government, being desirous in present circumstances of according to Austria a proof of friendship, has authorised me to declare that it will not require this Treaty to be applied to disputes arising out of events which occurred prior to its conclusion

Si le Gouvernement Fédéral est disposé à souscrire à cette déclaration, sa simple acceptation par Votre Excellence sera considérée comme établissant un accord d'engagement réciproque pour cette question ayant toute la force du Traité lui-même.

Veuillez agréer, Monsieur le Chancelier, les assurances de ma plus haute considération.

F. Serrat

A Son Excellence

Monseigneur Ignace Seipel,  
Chancelier Fédéral,  
Vienne.

Vienne, le 11 juin 1928.

Monsieur le Ministre,

En date de ce jour Votre Excellence a bien voulu m'adresser la note suivante:

"Monsieur le Chancelier,

"Au moment de procéder à la signature, en date de ce jour, du Traité de conciliation, de règlement judiciaire et d'arbitrage, je suis heureux de pouvoir Vous communiquer que le Gouvernement de Sa Majesté Catholique, désirant donner un témoignage d'amitié à l'Autriche, dans les circonstances actuelles, m'a autorisé à déclarer qu'il ne réclamera pas l'application de ce Traité aux contestations nées des faits qui sont antérieurs à sa conclusion.

"Si le Gouvernement Fédéral est disposé à souscrire à cette déclaration, sa simple acceptation par Votre Excellence sera considérée comme établissant un accord d'engagement réciproque pour cette question ayant toute la force du Traité lui-même.

"Veuillez agréer, Monsieur le Chancelier, les assurances de ma plus haute considération."

J'ai l'honneur de porter à la connaissance de Votre Excellence que

If the Federal Government is prepared to subscribe to this declaration, its mere acceptance by Your Excellency will be regarded as constituting a reciprocally binding agreement in this matter, having the same force as the Treaty itself.

I have the honour to be, etc.

F. Serrat

His Excellency

Monseigneur Ignatius Seipel,  
Federal Chancellor,  
Vienna.

Vienna, June 11, 1928.

Your Excellency,

You were good enough to send me the following Note bearing to-day's date:

"Your Excellency,

"On proceeding this day to sign the Treaty of Conciliation, Judicial Settlement and Arbitration, I am happy to inform you that His Catholic Majesty's Government, being desirous in present circumstances of according to Austria [a] proof of friendship, has authorised me to declare that it will not require this Treaty to be applied to disputes arising out of events which occurred prior to its conclusion.

"If the Federal Government is prepared to subscribe to this declaration, its mere acceptance by Your Excellency will be regarded as constituting a reciprocally binding agreement in this matter, having the same force as the Treaty itself.

"I have the honour, etc. . . ."

I have the honour to inform Your Excellency that the Federal Government accepts the declaration contained in your Note, so that the present Note constitutes

le Gouvernement Fédéral adhère à la déclaration contenue dans cette note, de sorte qu'un accord d'engagement réciproque sur ladite question, ayant toute la force du Traité lui-même, est établi par la présente note

Veillez agréer, Monsieur le Ministre, l'assurance renouvelée de ma plus haute considération

Seipel

A Son Excellence  
Monsieur Francisco Serrat y  
Bonastre, Envoyé extraordinaire  
et Ministre plénipotentiaire de Sa  
Majesté Catholique  
à Vienne

a reciprocally binding agreement in the said matter, having the same force as the Treaty itself.

I have the honour to be, etc.

Seipel

To

His Excellency  
Monsieur Francisco Serrat  
y Bonastre, His Catholic Majesty's  
Envoy Extraordinary and Minister  
Plenipotentiary at Vienna

#### PERMANENT COMMISSION OF CONCILIATION

No information available

### No. 111

#### DENMARK-THE UNITED STATES OF AMERICA TREATY OF ARBITRATION

Signed at Washington June 14, 1928, ratifications exchanged April 17, 1929

Original text communicated by the Danish Ministry of Foreign Affairs.<sup>1</sup>

His Majesty the King of Denmark and Iceland and the President of the United States of America,

Determined to prevent, so far as in their power lies any interruption in the peaceful relations that have always existed between Denmark and the United States,

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between the two countries, and

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the Powers of the world,

Have decided to conclude a new treaty of arbitration enlarging the scope and obligations of the arbitration convention signed at Washington on May 18, 1908, which expired by limitation on March 29, 1914, and for that purpose they have appointed as their respective Plenipotentiaries

<sup>1</sup> See also United States of America, *Treaty Series*, No. 784

His Majesty the King of Denmark and Iceland:

Mr. Constantin Brun, His Majesty's Envoy Extraordinary and Minister Plenipotentiary at Washington;

The President of the United States of America:

Mr. Frank B. Kellogg, Secretary of State of the United States;

who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I. All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to the Permanent International Commission constituted pursuant to the treaty signed at Washington April 17, 1914, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

The special agreement in each case shall be made on the part of Denmark in accordance with its constitutional laws, and on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof.

ART. II. The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(a) is within the domestic jurisdiction of either of the High Contracting Parties,

(b) involves the interests of third Parties,

(c) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine,

(d) depends upon or involves the observance of the obligations of Denmark in accordance with the Covenant of the League of Nations.

ART. III. The present treaty shall be ratified by Denmark in accordance with its constitutional laws and by the President of the United States of America by and with the advice and consent of the Senate thereof.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the Danish and English languages, both texts having equal force, and hereunto affix their seals.

Done at Washington the fourteenth day of June, one thousand nine hundred and twenty-eight.

C. Brun  
Frank B. Kellogg



## No. 112

LUXEMBURG-SPAIN: TREATY OF CONCILIATION,  
 • ARBITRATION, AND COMPULSORY  
 ADJUDICATION

Signed at Luxembourg June 21, 1928; ratifications not yet exchanged.

Original text communicated by the Government of Luxembourg

(Translation)

Son Altesse Royale la Grande-Duchesse de Luxembourg et Sa Majesté le Roi d'Espagne animés du désir de resserrer les liens d'amitié qui existent entre l'Espagne et le Grand-Duché de Luxembourg, et de résoudre, selon les principes les plus élevés du droit international public les différends qui viendraient à s'élever entre les deux pays, ont résolu de conclure à cet effet un Traité et ont désigné Leurs Plénipotentiaires, à savoir:

Son Altesse Royale la Grande-Duchesse de Luxembourg

Son Excellence Monsieur Joseph Bech, Son Ministre d'Etat, Président du Gouvernement,

Sa Majesté le Roi d'Espagne

Son Excellence Monsieur Emilio de Palacios y Fau, Son Envoyé Extraordinaire et Ministre Plénipotentiaire,

lesquels après s'être fait connaître leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1. Les Hautes Parties Contractantes s'engagent réciproquement à régler par voie pacifique et d'après les méthodes prévues par le présent Traité tous les litiges et conflits, de quelque nature qu'ils soient qui viendraient à s'élever entre le Luxembourg et l'Espagne et qui n'auraient pu être

Her Royal Highness the Grand Duchess of Luxembourg and His Majesty the King of Spain, desirous of strengthening the ties of friendship that exist between Spain and the Grand Duchy of Luxembourg, and of settling according to the highest principles of international public law any disputes which may arise between the two countries, have resolved to conclude a Treaty for that purpose, and have appointed as their Plenipotentiaries:

Her Royal Highness the Grand Duchess of Luxembourg:

His Excellency Monsieur Joseph Bech, Her Minister of State, President of the Government,

His Majesty the King of Spain:

His Excellency Monsieur Emilio de Palacios y Fau, His Envoy Extraordinary and Minister Plenipotentiary;

Who, having communicated to each other their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1. The High Contracting Parties reciprocally undertake to settle by pacific means, according to the methods laid down in the present Treaty, all disputes and conflicts, of whatever nature they may be, that may arise between Luxembourg and Spain, and that it may have proved impossible to

résolus par les procédés diplomatiques ordinaires.

settle by the ordinary diplomatic procedure.

#### PARTIE I

ART. 2. Tous litiges entre les Hautes Parties contractantes de quelque nature qu'ils soient, au sujet desquels les Parties se contesteraient réciproquement un droit et qui n'auraient pu être réglés à l'amiable par les procédés diplomatiques ordinaires, seront soumis pour jugement soit à un tribunal arbitral, soit à la Cour Permanente de Justice Internationale.

Les contestations pour la solution desquelles une procédure spéciale est prévue par d'autres conventions en vigueur entre les Hautes Parties contractantes seront réglées conformément aux dispositions de ces conventions.

ART. 3. S'il s'agit d'une contestation dont l'objet, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux, cette Partie pourra s'opposer à ce qu'elle soit soumise à la procédure prévue par le présent Traité avant qu'un jugement définitif ait été rendu, dans un délai raisonnable, par l'autorité judiciaire compétente.

ART. 4. Avant d'être soumis à la procédure judiciaire prescrite à l'article 2 du présent Traité, le différend pourra être, d'un commun accord entre les Parties, soumis à fin de conciliation, à une Commission Internationale Permanente, dite Commission Permanente de Conciliation, constituée conformément au présent Traité.

ART. 5. La Commission Permanente de Conciliation sera composée de cinq membres. Les Par-

#### PART I

ART. 2. All disputes of every kind between the High Contracting Parties with regard to which the Parties are in conflict as to their respective rights, and which it has not been possible to settle amicably by the ordinary diplomatic methods, shall be submitted for judgment either to an arbitral tribunal or to the Permanent Court of International Justice.

Disputes for the settlement of which a special procedure is laid down in other conventions in force between the High Contracting Parties shall be settled in accordance with the provisions of those conventions.

ART. 3. If the subject of the dispute is one which, according to the municipal law of one of the Parties, falls within the jurisdiction of the national courts, that Party may require that the dispute shall not be submitted to the procedure provided for in the present Treaty until a judgment with final effect has been delivered within a reasonable time by the competent judicial authority.

ART. 4. Before any resort is made to the judicial procedure prescribed in Article 2 of the present Treaty, the dispute may, by agreement between the Parties, be submitted, with a view to amicable settlement, to a Permanent International Commission, styled the Permanent Conciliation Commission, constituted in accordance with the present Treaty.

ART. 5. The Permanent Conciliation Commission shall be composed of five members. The Con-

ties contractantes nommeront chacune un Commissaire à leur gré et désigneront, d'un commun accord, les trois autres et, parmi ces derniers, le Président de la Commission. Ces trois Commissaires ne devront ni être ressortissants des Parties contractantes, ni avoir leur domicile sur leur territoire, ou se trouver à leur service. Ils devront être tous trois de nationalité différente.

Les Commissaires seront nommés pour cinq ans. Si, à l'expiration du mandat d'un membre de la Commission il n'est pas pourvu à son remplacement, son mandat est censé renouvelé pour une période de cinq ans, les Parties se réservent toutefois de transférer, à l'expiration du terme de cinq ans, les fonctions du Président à un autre des membres de la Commission désigné en commun.

Un membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part à l'examen du différend jusqu'à ce que la procédure soit terminée, nonobstant le fait que son remplaçant aurait été désigné.

En cas de décès ou de retraite de l'un des membres de la Commission de Conciliation, il devra être pourvu à son remplacement pour le reste de la durée de son mandat, si possible dans les trois mois qui suivront et, en tout cas, aussitôt qu'un différend aura été soumis à la Commission.

Au cas où l'un des membres de la Commission de Conciliation désigné en commun par les Parties contractantes serait momentanément empêché de prendre part aux travaux de la Commission par suite de maladie ou toute autre circonstance, les Parties s'entendront pour désigner un suppléant qui siègera temporairement à sa place tant que la Commission l'estimera nécessaire.

Contracting Parties shall each appoint a Commissioner of its own choice, and shall appoint by common agreement the other three Commissioners, and from among the latter, the President of the Commission. These three Commissioners may not be nationals of the Contracting Parties, nor be domiciled in their territory, nor be employed in their service. They must all three be of different nationalities.

The Commissioners shall be appointed for five years. If, on the expiration of the term of office of a member of the Commission, no arrangement has been made for his replacement, his term shall be deemed to be renewed for a period of five years. Nevertheless, the Parties reserve the right, on the expiration of the term of five years, to transfer the functions of the President to another of the members of the Commission appointed by common agreement.

A member whose term of office expires while proceedings are still in progress shall continue to take part in the examination of the dispute until the proceedings are concluded, even though his successor may have been appointed.

In the event of the death or retirement of any of the members of the Conciliation Commission, provision must be made to replace him for the remainder of his term, if possible within the three months following, and in any case as soon as a dispute is submitted to the Commission.

Should one of the members of the Conciliation Commission appointed by common agreement by the Contracting Parties be temporarily prevented by illness or any other cause from taking part in the work of the Commission, the Parties shall agree to appoint a substitute who shall for the time being

Si la désignation de ce suppléant n'intervient pas dans un délai de trois mois, à compter de la vacance temporaire du siège, il sera procédé conformément à l'article 6 du présent Traité.

ART. 6. La Commission Permanente de Conciliation sera constituée dans les six mois qui suivront l'échange des ratifications du présent Traité.

Si la nomination des membres à désigner en commun n'intervenait pas dans le dit délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, elle sera confiée à une Puissance tierce, désignée de commun accord par les Parties. Si l'accord ne s'établit pas à ce sujet, chaque Partie désignera une Puissance différente et les nominations seront faites de concert par les Puissances ainsi désignées. Et si, dans un délai de deux mois, ces deux Puissances n'ont pu tomber d'accord, chacune d'elles présentera des candidats en nombre égal aux membres à désigner; le sort déterminera lesquels des candidats ainsi présentés seront admis.

ART. 7. La Commission Permanente de Conciliation sera saisie par voie de requête adressée au Président par les deux Parties agissant d'un commun accord.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation.

ART. 8. Dans le délai de quinze jours à partir de la date où la Com-

mission pense qu'il est nécessaire.

If the appointment of this substitute is not made within three months from the occurrence of the temporary vacancy, action shall be taken as provided in Article 6 of the present Treaty.

ART. 6. The Permanent Conciliation Commission shall be set up within six months following the exchange of the ratifications of the present Treaty.

If the nomination of the members to be appointed jointly should not have taken place within the said period, or, in the case of the filling of a vacancy, within three months from the time when the seat falls vacant, such nomination shall be intrusted to a third Power selected by agreement between the Parties. If no agreement is reached on this point, each Party shall select a different Power and the nominations shall be made jointly by the Powers thus designated. If these two Powers have not been able to reach an agreement within two months, each of them shall put forward a number of candidates equal to the number of members to be appointed and lots shall be cast to decide which of the candidates so put forward shall be accepted.

ART. 7. A dispute shall be brought before the Permanent Conciliation Commission by means of a request addressed to the President by the two Parties acting in agreement.

The request shall contain a brief statement of the subject of the dispute, followed by an invitation to the Commission to take all steps calculated to lead to an amicable settlement.

ART. 8. Within the fortnight following the date on which the dis-

mission de Conciliation aura été saisie du différend, chacune des Parties pourra, pour l'examen de ce différend, remplacer le membre permanent désigné par elle par une personne possédant une compétence spéciale dans la matière. La partie qui voudrait user de ce droit en avisera immédiatement l'autre Partie; celle-ci aura la faculté d'user du même droit dans un délai de quinze jours à partir de la date où l'avis lui sera parvenu.

Chaque partie se réserve de nommer immédiatement un suppléant pour remplacer temporairement le membre permanent désigné par elle qui, par suite de maladie ou de toute autre circonstance, se trouverait momentanément empêché de prendre part aux travaux de la Commission.

ART. 9. La Commission de Conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

A la fin de ses travaux, la Commission dressera un procès-verbal constatant, suivant le cas, soit que les Parties se sont arrangées et s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la Commission devront, à moins que les Parties n'en conviennent différemment, être terminés dans le délai de six mois, à compter du jour où la Commission aura été saisie du litige.

Si les Parties n'ont pas été conciliées, la Commission pourra, à moins que les deux Commissaires

pute shall have been brought before the Conciliation Commission, either of the Parties may, for the examination of that dispute, replace the permanent member appointed by it by a person possessing special qualifications in the matter. The Party wishing to avail itself of this right shall immediately notify the other Party; the latter shall be entitled to avail itself of the same right within a fortnight after receiving the notification.

Each Party reserves the right to appoint immediately a substitute to replace temporarily the permanent member appointed by it if, owing to illness or any other circumstance, he should for the time being be prevented from taking part in the work of the Commission.

ART. 9. The task of the Conciliation Commission shall be to elucidate the questions in dispute, to collect with that object all useful information by means of inquiry or otherwise, and to endeavor to bring the Parties to an agreement. It may, after examining the case, inform the Parties of the terms of settlement which seem to it suitable and lay down a time-limit within which they are to reach their decision.

At the close of its proceedings, the Commission shall draw up a record showing, as the case may be, either that the Parties have arrived at a settlement, and, if necessary, the terms of such settlement, or that it has proved impossible to effect an amicable settlement.

Unless the Parties agree otherwise, the proceedings of the Commission must be completed within six months from the day on which the dispute was laid before the Commission.

librement nommés par les Parties ne s'y opposent, ordonner, avant que la Cour Permanente de Justice Internationale ou le Tribunal saisi du différend ait statué définitivement, la publication d'un rapport où sera consigné l'avis de chacun des membres de la Commission.

ART. 10. A moins de stipulation contraire, la Commission de Conciliation réglera elle-même sa procédure qui dans tous les cas, devra être contradictoire. En matière d'enquêtes, la Commission, si elle n'en décide autrement à l'unanimité, se conformera au dispositions du titre III (Commissions Internationales d'enquêtes) de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 11. La Commission de Conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son Président.

ART. 12. Les travaux de la Commission de Conciliation ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties.

ART. 13. Les Parties seront représentées auprès de la Commission de conciliation par des Agents ayant mission de servir d'intermédiaire entre elles et la Commission; elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet, et demander l'audition de toutes personnes dont le témoignage leur paraîtrait utile.

La Commission aura, de son côté, la faculté de demander des

If the Parties have not reached an amicable settlement, the Commission may, unless the two Commissioners freely appointed by the Parties object thereto, order, before the Permanent Court of International Justice or the Tribunal before which the dispute has been laid has delivered a final judgment, the publication of a report embodying the opinion of each of the members of the Commission.

ART. 10. Unless stipulation is made to the contrary, the Conciliation Commission shall decide upon its own procedure, which must in all cases allow of both Parties being heard. In regard to inquiries, the Commission shall, unless it unanimously decides otherwise, act in accordance with the provisions of Part III (International Commissions of Inquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 11. Unless the Parties agree otherwise, the Conciliation Commission shall meet at the place selected by its President.

ART. 12. The proceedings of the Conciliation Commission shall not take place in public unless the Commission, with the consent of the Parties, so decides.

ART 13. The Parties shall be represented before the Conciliation Commission by agents whose duty it shall be to act as intermediaries between them and the Commission. They may, in addition, obtain the services of counsel and experts appointed by them for that purpose, and they may request that all persons whose evidence appears to them useful should be heard.

The Commission, for its part, shall be entitled to ask for oral ex-

explications orales aux Agents, conseils et experts des deux Parties, ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement

ART 14 Sauf disposition contraire du présent Traité, les décisions de la Commission de Conciliation seront prises à la majorité des voix

ART 15 Les Parties Contractantes s'engagent à faciliter les travaux de la Commission de Conciliation et, en particulier, à lui fournir, dans la plus large mesure possible, tous documents et informations utiles, ainsi qu'à user des moyens dont elle dispose pour lui permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux

ART 16 Pendant la durée des travaux de la Commission de Conciliation, chacun des Commissaires recevra une indemnité dont le montant sera arrêté d'un commun accord entre les Parties contractantes

Chaque Gouvernement supportera ses propres frais et une part égale des frais communs de la Commission, les indemnités prévues à l'alinéa 1er étant comprises parmi ces frais communs

ART 17 A défaut de conciliation devant la Commission Permanente de Conciliation, la contestation sera soumise soit à un tribunal arbitral, soit à la Cour Permanente de Justice Internationale, suivant les stipulations de l'article 2 du présent Traité

En ce cas, comme dans celui où il n'y aurait pas eu recours préalable à la Commission Permanente

planations from the agents, counsel, and experts of the two Parties, as well as from any persons whom it may think useful to summon with the consent of their Governments

ART 14 Unless otherwise provided in the present Treaty, the decisions of the Conciliation Commission shall be taken by a majority vote

ART 15 The Contracting Parties undertake to facilitate the labors of the Conciliation Commission, and in particular to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to enable it to summon and hear witnesses or experts in their territory and in accordance with their laws and to visit the localities in question

ART 16 During the proceedings of the Conciliation Commission, each of the Commissioners shall receive an allowance the amount of which shall be fixed by agreement between the Contracting Parties

Each Government shall defray its own expenses and half the common expenses of the Commission, the allowances provided for in paragraph 1 being included in these joint expenses

ART 17 If no amicable settlement can be reached before the Permanent Conciliation Commission, the dispute shall be submitted either to a tribunal of arbitration or to the Permanent Court of International Justice, in accordance with the provisions of Article 2 of the present Treaty

In this case, or in the event of no application having been made in

de Conciliation, les Parties établiront de commun accord le compromis déferant le litige à la Cour Permanente de Justice Internationale ou désignant des arbitres. Le compromis déterminera nettement l'objet du différend, les compétences particulières qui pourraient être dévolues à la Cour Permanente de Justice Internationale ou au tribunal arbitral, ainsi que toutes autres conditions arrêtées entre Parties. Il sera établi par échange de notes entre les deux Gouvernements.

La Cour Permanente de Justice Internationale chargée de statuer sur le différend ou le tribunal arbitral désigné aux mêmes fins, auront respectivement compétence pour interpréter les termes du compromis.

Si le compromis n'est pas arrêté dans les trois mois à compter du jour où l'une des Parties aura été saisie de la demande aux fins de règlement judiciaire, chaque Partie pourra, après préavis d'un mois, porter directement, par voie de requête, la contestation devant la Cour Permanente de Justice Internationale.

Au surplus, la procédure applicable sera celle prévue par le statut de la Cour Permanente de Justice Internationale ou, en cas de recours à un tribunal arbitral, celle prévue par la Convention de La Haye du 18 octobre 1907, pour le règlement pacifique des conflits internationaux.

## PARTE II

ART 18. Toutes questions sur lesquelles les Gouvernements des deux Hautes Parties contractantes seraient divisés sans pouvoir les résoudre à l'amiable par les pro-

the first instance to the Permanent Conciliation Commission, the Parties shall jointly draw up the agreement referring the dispute to the Permanent Court of International Justice or appointing arbitrators. The agreement shall specify clearly the subject of the dispute, the particular powers that might devolve upon the Permanent Court of International Justice or the tribunal of arbitration, and any other conditions arranged between the Parties. It shall be established by an exchange of notes between the two Governments.

The Permanent Court of International Justice, when requested to render a decision upon the dispute, or the tribunal of arbitration, when appointed for the same purpose, shall respectively have authority to interpret the terms of the agreement.

If the agreement has not been drawn up within three months from the day on which one of the Parties was requested to submit the matter for judicial settlement, either Party may, upon giving one month's notice refer the dispute directly to the Permanent Court of International Justice by means of a request.

As regards other matters, the procedure applicable shall be that laid down by the Statute of the Permanent Court of International Justice, or, if recourse is had to a tribunal of arbitration, that laid down by the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

## PARTE II

ART 18. All questions upon which the Governments of the two High Contracting Parties may be at issue without being able to settle them amicably by the ordinary



cédés diplomatiques ordinaires, dont la solution ne pourrait être recherchée par un jugement, ainsi qu'il est prévu par l'article 2 du présent Traité et pour lesquelles une procédure de règlement ne serait pas déjà prévue par un traité ou convention en vigueur entre les Parties, seront soumises à la Commission Permanente de Conciliation.

A défaut d'accord entre les Parties sur la requête à présenter à la Commission, l'une ou l'autre d'entre elles aura la faculté de soumettre directement, après préavis d'un mois, la question à la dite Commission.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci, sans délai, à la Partie adverse.

La procédure prévue par les articles 7, alinéa 2, et 8 à 16 du présent Traité sera applicable.

ART. 19. Si les parties ne peuvent être conciliées le conflit sera, à la requête d'une seule des Parties, soumis pour décision à un tribunal arbitral, qui, à défaut d'autre accord entre les Parties, sera composé de cinq membres désignés pour chaque cas particulier, suivant la méthode prévue aux articles 5 et 6 du présent Traité en ce qui concerne la Commission de Conciliation. Ce tribunal arbitral aura, en pareil cas, les pouvoirs d'amiable compositeur: et dictera un règlement obligatoire pour tous les parties.

ART. 20. Lorsqu'il y aura lieu à arbitrage entre elles, les Parties contractantes s'engagent à conclure, dans un délai de trois mois à compter du jour où l'une des Parties aura adressé à l'autre la demande d'arbitrage un compromis spécial concernant l'objet du con-

diplomatic methods, and for which no solution can be found through a decision as provided in Article 2 of the present Treaty, and for which no method of settlement is already provided by any treaty or convention in force between the Parties, shall be referred to the Permanent Conciliation Commission.

Failing agreement between the Parties as to the application to be made to the Commission, either of them shall be entitled to submit the question directly to the Commission after the expiration of one month's notice.

If the application is made by only one of the Parties, that Party shall notify the other without delay.

The procedure laid down in Article 7, paragraph 2, and Articles 8 to 16 of the present Treaty shall be followed.

ART. 19. If the Parties cannot be brought to an agreement, the dispute shall, at the request of either of them, be submitted for decision to a tribunal of arbitration, which, unless the Parties agree otherwise, shall consist of five members appointed for each individual case by the method laid down in Articles 5 and 6 of the present Treaty for the Conciliation Commission. In such case the arbitral tribunal shall have the powers of a friendly arbitrator, and shall draw up a settlement which shall be binding upon all parties.

ART. 20. When there is occasion for arbitration between them, the Contracting Parties undertake to conclude, within three months from the day on which one of the Parties shall have addressed to the other a request for arbitration, a special agreement relating to the subject

flit, ainsi que les modalités de la procédure.

Si ce compromis ne peut être conclu dans le délai prévu, l'une des Parties aura le droit de saisir le Tribunal arbitral constitué en conformité de l'article 19 par voie de simple requête. Dans ce cas le Tribunal arbitral réglera lui-même la procédure.

#### DISPOSITIONS GÉNÉRALES

ART. 21. Si la Cour Permanente de Justice Internationale ou le Tribunal Arbitral établissait qu'une décision d'une instance judiciaire ou de toute autre autorité relevant de l'une des Parties contractantes se trouve entièrement ou partiellement en opposition avec le droit des gens et si le droit constitutionnel de cette Partie ne permettait pas ou ne permettait qu'imparfaitement d'effacer par voie administrative les conséquences de la décision dont il s'agit, la sentence judiciaire ou arbitrale déterminerait la nature et l'étendue de la réparation à accorder à la Partie lésée.

ART. 22. Durant la procédure de conciliation, la procédure judiciaire ou la procédure arbitrale, les Parties contractantes s'abstiendront de toute mesure pouvant avoir une répercussion sur l'acceptation des propositions de la Commission de Conciliation ou sur l'exécution de l'arrêt de la Cour Permanente de Justice Internationale ou de la sentence du tribunal arbitral. A cet effet, la Commission de Conciliation, la Cour de Justice et le Tribunal arbitral ordonneront, le cas échéant, quelles mesures provisionnelles doivent être prises.

ART. 23. Les contestations qui surgiraient au sujet de l'interpré-

of the dispute and the methods of the procedure.

Should it prove impossible to conclude this agreement within the prescribed time, either Party shall be entitled to refer the matter by a simple application to the tribunal of arbitration constituted as provided in Article 19. In such case the tribunal of arbitration shall itself decide upon the procedure.

#### GENERAL PROVISIONS

ART. 21. Should the Permanent Court of International Justice or the tribunal of arbitration find that a decision of a court of law or any other authority of one of the Contracting Parties is wholly or partly in conflict with international law, and should the constitutional law of that Party not permit, or only imperfectly permit, the consequences of the decision in question to be annulled by administrative action, the judicial decision or arbitral award should indicate the nature and extent of the reparation to be made to the injured Party.

ART. 22. While the conciliation proceedings, the judicial proceedings, or the arbitration proceedings are in progress, the Contracting Parties shall refrain from taking any measure which might influence the acceptance of the proposals of the Conciliation Commission or the execution of the judgment of the Permanent Court of International Justice or the award of the tribunal of arbitration. With this object, the Conciliation Commission, the Permanent Court, or the tribunal of arbitration shall, if necessary, order what provisional measures are to be taken.

ART. 23. Any disputes that may arise with regard to the interpre-

tation ou de l'exécution du présent Traité seront, sauf accord contraire, soumises directement à la Cour Permanente de Justice Internationale par voie de simple requête.

ART. 24. Le présent Traité sera ratifié. Les instruments de ratification seront échangés à Bruxelles, dans le plus bref délai possible.

Le présent Traité entrera en vigueur à la date de l'échange des ratifications et aura une durée de dix ans à partir de cette date. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il sera considéré comme renouvelé pour une période de dix années, et ainsi de suite.

Si, lors de l'expiration du présent Traité, une procédure de conciliation, de règlement judiciaire ou d'arbitrage se trouve pendante, elle suivra son cours jusqu'à son achèvement, conformément aux stipulations du présent Traité.

En foi de quoi, les Plénipotentiaires susnommés ont signé le présent Traité et y ont apposé leur cachet.

Fait à Luxembourg en double exemplaire, le vingt-et-un juin mil neuf cent vingt-huit.

Bech  
Emilio de Palacios

tation or execution of the present Treaty shall, in the absence of any agreement to the contrary, be submitted directly to the Permanent Court of International Justice by a simple application.

ART. 24. The present Treaty shall be ratified. The instruments of ratification shall be exchanged at Brussels as soon as possible.

The present Treaty shall come into force on the date of the exchange of ratifications, and shall remain in force for ten years from that date. Unless denounced six months before the expiration of that period, it shall be regarded as renewed for a period of ten years, and similarly thereafter.

If, at the expiration of the present Treaty, proceedings of conciliation, judicial settlement, or arbitration are pending, they shall pursue their course until their completion in accordance with the provisions of the present Treaty.

In witness whereof the above-named Plenipotentiaries have signed the present Treaty and have thereto affixed their seals.

Done in duplicate at Luxemburg. June twenty-first, one thousand nine hundred and twenty-eight.

Bech  
Emilio de Palacios

#### FINAL PROTOCOL

Aucune contestation n'existant actuellement entre les deux Etats, les Parties contractantes en signant le présent Traité n'ont fait aucune déclaration concernant l'application rétroactive du Traité, puisque cette question ne se pose pas; toutefois il est entendu que les engagements que stipule ce Traité seront applicables aux contestations portant sur l'interprétation de tout Traité antérieur encore en

Inasmuch as no dispute at present exists between the two States, the Contracting Parties, when signing the present Treaty, have made no declaration regarding the retrospective application of the Treaty, because that question does not arise. At the same time it is understood that the engagements stipulated by this Treaty shall apply to disputes relating to the interpretation of any earlier Treaty still

vigueur, dont, après la signature du présent Traité de conciliation, de Règlement judiciaire et d'Arbitrage, il serait fait par une des Parties une application que l'autre Partie jugerait non conforme à ses droits. Il en serait encore ainsi si l'application incriminée avait commencé dès avant la signature du présent Traité et se poursuivait après la dite signature.

En foi de quoi, les Plénipotentiaires ont signé le présent Protocole.

Fait à Luxembourg, en double exemplaire, le vingt et un juin mil neuf cent vingt-huit.

Bech

Emilio de Palacios

in force which may, after the signature of the present Treaty of Conciliation, Judicial Settlement, and Arbitration, be applied by one of the Parties in a manner regarded by the other Party as incompatible with its rights. This shall also be the case if the application objected to had already begun before the signature of the present Treaty and continued thereafter.

In witness whereof the Plenipotentiaries have signed the present Protocol.

Done in duplicate at Luxembourg, June twenty first, one thousand nine hundred and twenty-eight.

Bech

Emilio de Palacios

#### PERMANENT COMMISSION OF CONCILIATION

No information available

### No. 113

#### FRANCE-PORTUGAL TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Paris July 7 1928 ratifications not yet exchanged

Original text<sup>1</sup> communicated by the Portuguese Bureau of the League of Nations at Geneva

(Translation)

Le Président de la République Portugaise et le Président de la République Française,

S'inspirant des heureuses relations d'amitié qui unissent le Portugal et la France,

Considérant que la Convention d'arbitrage conclue entre les deux pays à Paris, le 29 juin 1906, est venue à expiration le 5 avril 1914,

Et également désireux d'assurer dans tous les cas, conformément aux principes consacrés par le Pacte

The President of the Portuguese Republic and the President of the French Republic,

Bearing in mind the friendly relations that happily unite Portugal and France,

Having regard to the fact that the Arbitration Convention concluded between the two countries at Paris on June 29, 1906 expired on April 5, 1914,

And being equally desirous of insuring in all cases, in accordance

<sup>1</sup> The Portuguese text is also authentic

de la Société des Nations, le règlement pacifique de tous les différends et conflits, de quelque nature qu'ils soient, qui viendraient à s'élever entre les deux pays,

Ont résolu de conclure un Traité à cet effet et ont nommé pour leurs Plénipotentiaires respectifs, savoir:

Le Président de la République Portugaise:

M. Armando Humberto da Gama Ochôa, Envoyé Extraordinaire et Ministre Plénipotentiaire de la République portugaise à Paris;

Le Président de la République Française:

M. Aristide Briand, Ministre des Affaires Étrangères de la République française.

Lesquels, après s'être communiqué leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Tous différends entre le Gouvernement de la République française et le Gouvernement de la République portugaise, de quelque nature qu'ils soient et qui n'auraient pu être résolus par les procédés diplomatiques ordinaires, seront, avant toute procédure devant la Cour Permanente de Justice Internationale ou avant tout recours à l'arbitrage, soumis à fin de conciliation à une Commission internationale permanente, dite "Commission Permanente de Conciliation," constituée conformément au présent Traité.

Toutefois, les Hautes Parties Contractantes auront toujours la liberté de convenir qu'un litige déterminé sera réglé directement par la Cour Permanente de Justice Internationale ou par voie d'arbi-

with the principles established by the Covenant of the League of Nations, the peaceful settlement of all disputes and conflicts, of whatever nature they may be, that may arise between the two countries,

Have resolved to conclude a Treaty for that purpose, and have appointed as their respective Plenipotentiaries, to wit:

The President of the Portuguese Republic:

M. Armando Humberto da Gama Ochôa, Envoy Extraordinary and Minister Plenipotentiary of the Portuguese Republic at Paris,

The President of the French Republic:

M. Aristide Briand, Minister of Foreign Affairs of the French Republic,

Who, having communicated to each other their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE I. All disputes between the Government of the French Republic and the Government of the Portuguese Republic, of whatever nature they may be, which it has not been possible to settle by the ordinary diplomatic methods, shall, before any proceedings are instituted before the Permanent Court of International Justice or any resort is had to arbitration, be submitted with a view to amicable settlement to a permanent international commission styled the Permanent Conciliation Commission, constituted in accordance with the present Treaty.

Nevertheless, the High Contracting Parties shall always be free to agree that any particular dispute shall be dealt with directly by the Permanent Court of International

trage, sans recours au préliminaire de conciliation ci-dessus prévu

ART 2 S'il s'agit d'un différend qui, d'après la législation intérieure de l'une des Parties, relève de la compétence des tribunaux nationaux de celle-ci, y compris les Tribunaux administratifs, le différend ne sera soumis à la procédure prévue par le présent Traité qu'après jugement passé en force de chose jugée rendu dans des délais raisonnables par l'autorité judiciaire nationale compétente

ART 3 La Commission Permanente de Conciliation prévue à l'article 1<sup>er</sup> sera composée de cinq membres, qui seront désignés comme il suit, savoir Les Hautes Parties Contractantes nommeront chacune un Commissaire choisi parmi leurs nationaux respectifs et désigneront, d'un commun accord, les trois autres Commissaires parmi les ressortissants de tierces Puissances, ces trois Commissaires devront être de nationalités différentes et, parmi eux, les Gouvernements français et portugais désigneront le Président de la Commission

Les Commissaires sont nommés pour trois ans, leur mandat est renouvelable Ils resteront en fonctions jusqu'à leur remplacement, et, dans tous les cas, jusqu'à l'achèvement de leurs travaux en cours au moment de l'expiration de leur mandat

Il sera pourvu, dans le plus bref délai, aux vacances qui viendraient à se produire, par suite de décès, de démission ou de quelque autre empêchement, en suivant le mode fixé pour les nominations

ART 4. La Commission Permanente de Conciliation sera con-

Justice or by arbitration, without resort to the preliminary conciliation procedure provided for above

ART 2. In the case of a dispute which, according to the municipal law of one of the Parties, falls within the jurisdiction of the national courts of that Party, including the administrative courts, the dispute shall not be submitted to the procedure provided for in the present Treaty until a judgment with final effect has been delivered within a reasonable time by the competent national judicial authority

ART 3 The Permanent Conciliation Commission provided for in Article 1 shall be composed of five members, who shall be appointed as follows, to wit each of the High Contracting Parties shall nominate a Commissioner chosen from among its nationals and the two Parties by common accord shall select the other three Commissioners from among the nationals of third Powers, these three Commissioners must be of different nationalities, and the French and Portuguese Governments shall select one of them to be President of the Commission

The Commissioners shall be appointed for three years, and their appointment shall be renewable They shall remain in office until their places have been filled, and, in any case, until the conclusion of the proceedings in progress at the expiration of their term

Any vacancies that may occur through death, resignation, or any other cause that may prevent a Commissioner from acting, shall be filled as soon as possible by the method followed in making appointments

ART 4 The Permanent Conciliation Commission shall be set up

stituée dans les six mois qui suivront l'entrée en vigueur du présent Traité

Si la nomination des Commissaires à désigner en commun n'intervenait, pas dans ledit délai, ou, en cas de remplacement, dans les trois mois à compter de la vacance de siège, le Président de la Confédération suisse sera, à défaut d'autre entente, prié de procéder aux désignations nécessaires

ART 5 La Commission Permanente de Conciliation sera saisie par voie de requête adressée au Président par les deux Parties agissant d'un commun accord ou, à défaut, par l'une ou l'autre des Parties

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à la Partie adverse

ART 6 Dans un délai de 15 jours à partir de la date où le Gouvernement français ou le Gouvernement portugais aurait porté une contestation devant la Commission Permanente de Conciliation, chacune des Parties pourra, pour l'examen de cette contestation, remplacer son commissaire par une personne possédant une compétence spéciale dans la matière

La Partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie celle-ci aura, dans ce cas, la faculté d'agir de même, dans un délai de 15 jours à partir de la date où la notification lui sera parvenue

ART 7 La Commission Permanente de Conciliation aura pour

within six months from the entry into force of the present Treaty

If the Commissioners to be appointed jointly should not be appointed within that period, or, in the case of a vacancy, within three months from the occurrence of the vacancy, the President of the Swiss Confederation shall, unless it be otherwise agreed, be asked to make the necessary selections

ART 5 A dispute shall be brought before the Permanent Conciliation Commission by means of a request addressed to the President by the two Parties acting in agreement, or, if this is not possible, by either Party

The request shall contain a brief statement of the dispute, followed by an invitation to the Commission to take all steps calculated to lead to an amicable settlement

If the request is made by one only of the Parties, that Party shall at once notify the other Party

ART 6 Within the fortnight following the date on which the French Government or the Portuguese Government has laid a dispute before the Permanent Conciliation Commission, either Party may, for the examination of that dispute, replace its Commissioner by a person possessing special qualifications in the matter

The Party availing itself of this right shall immediately notify the other Party, in this case, the latter shall be entitled to take like action within the fortnight following the day on which it receives the notification

ART 7 The task of the Permanent Conciliation Commission shall

tâche d'élucider les questions en litige, de recueillir à cette fin toutes informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, proposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

À la fin de ses travaux, la Commission dressera un procès verbal constatant, suivant les cas soit que les Parties se sont arrangées et, s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la Commission devront, à moins que les Parties en conviennent différemment, être terminés dans le délai de six mois à compter du jour où la Commission aura été saisie du litige.

ART 8 À moins de stipulation spéciale contraire, la Commission Permanente de Conciliation réglera elle-même sa procédure qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la Commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du Titre III (Commission internationale d'enquête) de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART 9 La Commission Permanente de Conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son Président.

ART 10 Les travaux de la Commission Permanente de Conciliation ne sont publics qu'en

be to elucidate the questions in dispute, to collect with that object all useful information by means of inquiry or otherwise, and to endeavor to bring the Parties to an agreement. It may, after examining the case, propose to the Parties the terms of settlement which seem to it suitable, and lay down a time-limit within which they are to reach their decision.

At the close of its proceedings, the Commission shall draw up a record showing, as the case may be, either that the Parties have come to a settlement and, if need be, the terms of such settlement, or that it has proved impossible to effect an amicable settlement.

The proceedings of the Commission must, unless the Parties otherwise agree, be concluded within six months from the day on which the dispute was laid before the Commission.

ART 8 Unless special stipulation is made to the contrary, the Permanent Conciliation Commission shall decide upon its own procedure which must in all cases allow of both Parties being heard. In regard to inquiries, the Commission shall, unless it unanimously decides otherwise, act in accordance with the provisions of Part III (International Commissions of Inquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART 9 Unless the Parties otherwise agree, the Permanent Conciliation Commission shall meet at the place selected by its President.

ART 10 The proceedings of the Permanent Conciliation Commission shall not take place in public.



vertu d'une décision prise par la Commission avec l'assentiment des Parties.

ART 11 Les Parties seront représentées auprès de la Commission Permanente de Conciliation par des agents ayant mission de servir d'intermédiaires entre elles et la Commission, elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander que toutes personnes dont le témoignage leur paraîtrait utile soient entendues par la Commission

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur Gouvernement

ART 12 Sauf disposition contraire du présent Traité, les décisions de la Commission Permanente de Conciliation seront prises à la majorité des voix

La Commission ne pourra prendre des décisions portant sur le fond du différend que si tous les membres ont été dûment convoqués et si le Président et deux membres au moins sont présents. Dans le cas où trois membres seulement et le Président seraient présents, la voix du Président comptera pour deux.

ART 13 Les Hautes Parties Contractantes s'engagent à faciliter les travaux de la Commission Permanente de Conciliation et, en particulier, à lui fournir dans la plus large mesure possible tous les documents et informations utiles, ainsi qu'à user des moyens dont elles disposent pour lui permettre de procéder sur leur territoire et selon leur législation à la citation

unless the Commission, with the consent of the Parties so decides

ART 11 The Parties shall be represented before the Permanent Conciliation Commission by agents whose duty it shall be to act as intermediaries between them and the Commission, they may, in addition, obtain the assistance of counsel and experts appointed by them for that purpose, and they may request that all persons whose evidence appears to them useful should be heard by the Commission

The Commission, for its part, shall be entitled to ask for oral explanations from the agents, counsel, and experts of the two Parties, as well as from any persons whom it may think useful to summon with the consent of their Governments

ART 12 Unless otherwise provided in the present Treaty, the decisions of the Permanent Conciliation Commission shall be taken by a majority vote

The Commission may not take any decision relating to the actual question at issue unless all the members have been duly given notice and unless the President and at least two other members are present. Should only three other members and the President be present, the vote of the President shall count as two votes

ART 13 The High Contracting Parties undertake to facilitate the labors of the Permanent Conciliation Commission, and in particular to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to enable it to summon and hear witnesses or experts in their territory and in accordance with their laws,

et à l'audition de témoins ou d'experts et à des transports sur les lieux.

and to visit the localities in question.

ART. 14. Pendant la durée des travaux de la Commission Permanente de Conciliation, chacun des commissaires recevra une indemnité dont le montant sera arrêté d'un commun accord entre les Gouvernements français et portugais, qui en supporteront chacun une part égale.

Chaque Gouvernement supportera ses propres frais et une part égale des frais communs de la Commission.

ART. 14. During the proceedings of the Permanent Conciliation Commission, each of the commissioners shall receive an allowance, the amount of which shall be fixed by agreement between the French and Portuguese Governments and borne by them in equal shares.

Each Government shall bear its own expenses and an equal share of the common expenses of the Commission.

ART. 15. A défaut de conciliation devant la Commission Permanente de Conciliation, les litiges ayant pour objet un droit allégué par une des Parties et contesté par l'autre, notamment les litiges mentionnés dans l'article 13 du Pacte de la Société des Nations, seront soumis par voie de compromis soit à la Cour Permanente de Justice Internationale dans les conditions et suivant la procédure prévues par son Statut, soit à un Tribunal arbitral dans les conditions et suivant la procédure prévues par la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

A défaut d'accord entre les Parties sur le compromis et après un préavis d'un mois, l'une ou l'autre d'entre elles aura la faculté de porter directement par voie de requête la contestation devant la Cour Permanente de Justice Internationale.

ART. 16. Les différends autres que les litiges visés à l'alinéa 1<sup>er</sup> de l'article 15 seront, à défaut de conciliation, soumis à un Tribunal arbitral ayant le pouvoir de statuer *ex aequo et bono*.

ART. 15. If no amicable settlement can be reached before the Permanent Conciliation Commission, disputes relating to a right asserted by one of the Parties and contested by the other, more especially disputes mentioned in Article 13 of the Covenant of the League of Nations, shall be submitted through agreement either to the Permanent Court of International Justice under the conditions and according to the procedure laid down in its Statute, or to an arbitral tribunal under the conditions and according to the procedure laid down by the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

Failing unanimity between the Parties as to the agreement, either of them may, after giving one month's notice, bring the dispute directly before the Permanent Court of International Justice by means of an application.

ART. 16. Disputes other than those covered by paragraph 1 of Article 15 shall, if conciliation fails, be submitted to an arbitral tribunal having power to decide *ex aequo et bono*.

Ce Tribunal sera, s'il n'en est convenu autrement, composé de cinq membres désignés suivant la méthode prévue aux articles 3 et 4 pour la composition de la Commission de Conciliation.

Faute par les Parties de s'entendre sur les termes du compromis soumettant le différend au Tribunal, l'une ou l'autre des Parties aura la faculté, après un préavis d'un mois, de saisir directement le Tribunal de la contestation.

ART. 17. Les Gouvernements français et portugais s'engagent respectivement à s'abstenir, durant le cours d'une procédure ouverte en vertu des dispositions du présent Traité, de toute mesure susceptible d'avoir une répercussion préjudiciable, soit à l'exécution de la décision à rendre par la Cour Permanente de Justice Internationale ou par le Tribunal arbitral, soit aux arrangements proposés par la Commission Permanente de Conciliation et en général à ne procéder à aucun acte, de quelque nature qu'il soit, susceptible d'aggraver ou d'étendre le différend.

Dans tous les cas et notamment si la question au sujet de laquelle les Parties sont divisées résulte d'actes déjà effectués ou sur le point de l'être, la Commission de Conciliation, ou, si celle-ci ne s'en trouvait pas saisie, la Cour Permanente de Justice Internationale statuant conformément à l'article 41 de son Statut, ou le Tribunal arbitral, indiqueront dans le plus bref délai possible quelles mesures provisoires doivent être prises. Les Hautes Parties Contractantes s'engagent respectivement à se conformer auxdites mesures.

ART. 18. Si quelque contestation venait à surgir entre les Hautes Parties Contractantes relativement à l'application du présent

Unless it be otherwise agreed, this tribunal shall consist of five members, appointed by the method laid down in Articles 3 and 4 for the composition of the Conciliation Commission.

Should the Parties fail to reach unanimity as to the terms of the agreement submitting the dispute to the tribunal, either of them may, after giving one month's notice, lay the dispute directly before the tribunal.

ART. 17. The French and Portuguese Governments respectively undertake to refrain, during any proceedings instituted in virtue of the provisions of the present Treaty, from taking any step which might have a prejudicial influence either on the execution of the decision to be given by the Permanent Court of International Justice or the arbitral tribunal, or on the arrangements proposed by the Permanent Conciliation Commission, and in general to take no action of any kind whatever that might have the effect of aggravating or extending the dispute.

In every case, and particularly if the question on which the Parties are at issue arises out of acts already performed or about to be performed, the Conciliation Commission, or, if the matter is not before that Commission, the Permanent Court of International Justice pronouncing in accordance with Article 41 of its Statute, or the arbitral tribunal, shall indicate as speedily as possible what provisional measures are to be taken. Each of the High Contracting Parties undertakes to carry out such measures.

ART. 18. Should any dispute arise between the High Contracting Parties as to the application of the present Treaty, such dispute

**Traité**, cette contestation serait directement portée devant la Cour Permanente de Justice Internationale dans les conditions prévues à l'article 40 du statut de ladite Cour.

ART. 19. Le présent Traité ne s'appliquera qu'aux litiges qui viendraient à s'élever après l'échange des ratifications, au sujet de situations ou de faits postérieurs à cette date.

Les litiges pour la solution desquels une procédure spéciale est prévue par d'autres accords en vigueur entre les Parties Contractantes seront réglés conformément aux stipulations de ces accords.

ART. 20. Le présent Traité sera ratifié et les ratifications en seront échangées à Paris aussitôt que faire se pourra.

ART. 21. Le présent Traité entrera en vigueur dès l'échange des ratifications et aura une durée de cinq ans à partir de son entrée en vigueur. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il sera considéré comme renouvelé pour un période de cinq années et ainsi de suite.

Si, lors de l'expiration du présent Traité une procédure quelconque en vertu de ce Traité se trouvait pendante devant la Commission Permanente de Conciliation, devant la Cour Permanente de Justice Internationale ou devant un Tribunal d'arbitrage, cette procédure serait poursuivie jusqu'à son achèvement.

En foi de quoi, les Plénipotentiaires susnommés ont signé le présent Traité dressé en double exemplaire, chaque exemplaire établi en français et en portugais, ces deux textes ayant même force et valeur et faisant également foi.

Fait à Paris, le 7 juillet 1928.

shall be brought directly before the Permanent Court of International Justice under the conditions laid down in Article 40 of the Statute of the said Court.

ART. 19. The present Treaty shall apply only to disputes arising after the exchange of ratifications in connection with situations or events subsequent to that date.

Disputes for the settlement of which a special procedure is laid down by other agreements in force between the Contracting Parties shall be settled in accordance with the provisions of such agreements.

ART. 20. The present Treaty shall be ratified, and the ratifications shall be exchanged at Paris as quickly as possible.

ART. 21. The present Treaty shall come into force upon the exchange of ratifications, and shall remain valid for five years from its entry into force. Unless denounced six months before the expiration of that term, it shall be deemed to be renewed for a period of five years, and similarly thereafter.

If, at the expiration of the present Treaty, proceedings of any kind under this Treaty are pending before the Permanent Conciliation Commission, the Permanent Court of International Justice, or an arbitral tribunal, such proceedings shall be continued to their conclusion.

In witness whereof the above-named Plenipotentiaries have signed the present Treaty, which is drawn up in two copies, each made in French and Portuguese, the two texts being equal in force and validity and equally authentic.

Done at Paris, July 7, 1928.

PERMANENT COMMISSION OF CONCILIATION

No information available.

## No. 114

## COLOMBIA-MEXICO: TREATY OF ARBITRATION

Signed at Mexico July 11, 1928; ratifications not yet exchanged.

Original text communicated by the Mexican Legation at Washington, D. C.

(Translation)

El Excelentísimo señor Presidente de los Estados Unidos Mexicanos, de una parte, y el Excelentísimo señor Presidente de la República de Colombia, de la otra, animados del deseo de afirmar los vínculos de amistad que existen entre las dos Repúblicas, han resuelto celebrar un Tratado de Arbitraje y con este objeto han nombrado sus Plenipotenciarios:

El Presidente de los Estados Unidos Mexicanos, a don Genaro Estrada, Subsecretario de Relaciones Exteriores, Encargado del Despacho, y

El Presidente de la República de Colombia, al General don Carlos Cuervo Márquez, Su Enviado Extraordinario y Ministro Plenipotenciario en México.

Quienes después de haberse comunicado sus Plenos Poderes y hallándolos en buena y debida forma, han convenido en los siguientes artículos:

ARTÍCULO I. Las Altas Partes Contratantes se comprometen a someter a un Tribunal de Arbitraje, compuesto en la forma que adelante se expresa, todas las diferencias que puedan suscitarse entre ellas y que no hubieren podido ser resueltas por la vía diplomática, con excepción de los casos siguientes:

I. Aquellos que puedan comprometer la independencia o la soberanía de ambas naciones, o el ejercicio de ellas en asuntos de orden interno.

II. Los que se refieran a hechos o actos directamente autorizados

His Excellency the President of the United States of Mexico, on the one part, and His Excellency the President of the Republic of Colombia, on the other, desiring to strengthen the ties of friendship existing between the two Republics, have resolved to conclude a Treaty of Arbitration and for this purpose have nominated as their Plenipotentiaries:

The President of the United States of Mexico, Don Genaro Estrada, Under-Secretary of Foreign Affairs, in charge of the Department, and

The President of the Republic of Colombia, General Don Carlos Cuervo Márquez, His Envoy Extraordinary and Minister Plenipotentiary in Mexico;

Who, having communicated their full powers and finding them in good and due form, have agreed on the following articles:

ARTICLE I. The High Contracting Parties undertake to submit to an Arbitral Tribunal, constituted in the manner stated below, all disputes that may arise between them and which it has not been possible to settle through diplomatic channels, with the exception of the following cases:

I. Those that may endanger the independence or the sovereignty of the respective nations or their exercise in matters of an internal nature.

II. Those which are related to acts or provisions directly author-

por la Constitución del Estado respectivo.

III. Los que comprendan el interés o se refieran a la acción de un tercer Estado.

ART. II. Cuando se trate de un litigio sobre materia que, de acuerdo con la legislación interior de una de las Partes, sea de la competencia de sus tribunales judiciales, esta Parte podrá oponerse a que se someta el procedimiento previsto por el presente Tratado, en tanto que no haya sido objeto de una decisión definitiva dictada por la autoridad judicial nacional competente, dentro de un plazo razonable; si la otra Parte se propusiera impugnar esta decisión judicial, deberá someter el litigio al procedimiento de arbitraje dentro del año a partir de la referida decisión.

ART. III. Salvo estipulación en contrario, el Tribunal de Arbitraje estará formado por tres miembros, de los cuales cada una de las Partes nombrará uno y el tercero será nombrado por ambas de común acuerdo.

Si en un período de seis meses las Partes no se pusieren de acuerdo para el nombramiento del tercer miembro del Tribunal, se someterán al que haga el Jefe de Estado de una nación iberoamericana, designado de conformidad por ambas Partes.

ART. IV. Para cada caso, las Altas Partes Contratantes firmarán un compromiso en el cual se determinará el objeto del litigio, la sede del Tribunal, y en general todas las reglas y procedimientos necesarios para el mejor funcionamiento de éste. El compromiso se establecerá mediante el canje de notas entre las Partes y será inter-

ized by the Constitution of the respective State.

III. Those which concern the interest or are related to the action of a third State.

ART. II. In the case of a dispute upon a matter which, according to the municipal law of one of the Parties, lies within the jurisdiction of its judicial tribunals, that Party may require that the dispute shall not be submitted to the procedure laid down in the present Treaty, so long as it has not been the subject of a definite decision rendered by the competent national judicial authority, within a reasonable term. If the other Party decides to oppose that decision, it must submit the dispute to arbitral proceedings within a year following the said decision.

ART. III. Unless otherwise stipulated, the Arbitral Tribunal shall be composed of three members, of whom each of the Parties shall name one and the third shall be appointed by joint agreement.

If within a period of six months the Parties shall not have been able to agree upon the appointment of the third member of the Tribunal, they shall accept the one nominated by the Chief of State of an Ibero-American nation designated by agreement of both Parties.

ART. IV. For each case, the High Contracting Parties shall sign an arbitration agreement in which shall be stated the object of the litigation, the seat of the Tribunal, and in general all the rules and procedure necessary for the best functioning of that body. The arbitration agreement shall be constituted by means of the exchange of notes

pretado en todos sus puntos por el Tribunal Arbitral.

ART. V. Las Altas Partes Contratantes se comprometen a facilitar en todos los casos los trabajos del Tribunal, a suministrarle todos los documentos e informaciones útiles, así como usar de todos los medios de que dispongan, para investirlo de la competencia necesaria para proceder dentro de sus territorios, y de acuerdo con sus respectivas legislaciones, a la citación de testigos y peritos, así como a inspecciones oculares.

ART. VI. Bajo reserva de las disposiciones contrarias al presente Tratado, el procedimiento de Arbitraje será regido por los Artículos 51 a 85 de la Convención de La Haya de 18 de octubre de 1907 para el arreglo pacífico de los conflictos internacionales.

ART. VII. La sentencia arbitral se pronunciará por mayoría de votos, será firmada por el Presidente del Tribunal y el actuario, y decidirá definitivamente y sin apelación la controversia. Sin embargo, antes de la ejecución de la sentencia, el Tribunal podrá conocer de su revisión en los siguientes casos:

1º. Si se ha fallado en virtud de documentos falsos o erróneos.

2º. Si la sentencia estuviere viciada, en todo o en parte, por un error de hecho que resulte de las actuaciones o documentos de la causa.

ART. VIII. Cada parte pagará los honorarios de su árbitro y la mitad de los emolumentos del tercer árbitro y de los gastos generales del Tribunal.

ART. IX. Las Altas Partes Contratantes se comprometen a ejecu-

between the Parties and shall be interpreted in all its parts by the Arbitral Tribunal.

ART. V. The High Contracting Parties undertake to facilitate in every way the work of the Tribunal, to supply it with all relevant documents and information, as well as to use all means at their disposal to invest it with the competence necessary to proceed within their territories, and in accordance with their respective legislation, to the calling of witnesses and experts, as well as investigation by visit.

ART. VI. Except for clauses contrary to the present Treaty, the Arbitral proceedings shall conform to Articles 51 to 85 of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. VII. The Arbitral Award shall be decided by a majority of votes, shall be signed by the President of the Tribunal and the clerk, and shall decide the dispute definitely and without appeal. Nevertheless, before the execution of the award, the Tribunal shall be able to admit of its revision in the following cases:

1. If the judgment has been based on false or erroneous documents.

2. If the award should be vitiated, in whole or in part, by an error of fact resulting from the procedure or documents of the case.

ART. VIII. Each Party shall pay the honorarium of its arbitrator and half the compensation of the third arbitrator and of the general expenses of the Tribunal.

ART. IX. The High Contracting Parties agree to execute in good

tar de buena fe la sentencia dictada por el Tribunal.

ART. X. El presente Tratado permanecerá en vigor diez años, a partir del canje de ratificaciones. Si no fuere denunciado seis meses antes de la expiración de este término, quedará en vigor por un nuevo período de diez años, y así sucesivamente.

ART. XI. Después de aprobado este Tratado por los Gobiernos de México y Colombia, y ratificado por los Cuerpos legislativos de una y otra nación, se efectuará el canje de ratificaciones en la ciudad de México, a la mayor brevedad posible.

En fe de lo cual los respectivos Plenipotenciarios lo firmaron por duplicado en la ciudad de México, a los once días del mes de julio de mil novecientos veintiocho.

G. Estrada  
C. Cuervo Márquez

faith the award rendered by the Tribunal.

ART. X. The present treaty shall remain in force ten years from the exchange of ratifications. Unless denounced six months before the expiration of that period, it shall remain in force for a further period of ten years, and thus similarly thereafter.

ART. XI. The Treaty having been approved by the Governments of Mexico and Colombia, and ratified by the Legislative Bodies of both nations, the exchange of ratifications shall take place in the city of Mexico, in the briefest possible time.

In witness whereof, the respective Plenipotentiaries have signed in duplicate in the city of Mexico, on the eleventh day of the month of July, 1928.

G. Estrada  
C. Cuervo Márquez

## No. 115

### ABYSSINIA (ETHIOPIA)-ITALY: TREATY OF CONCILIATION AND ARBITRATION

Signed at Addis Abeba August 2, 1928; ratifications exchanged August 3, 1929.

Original text<sup>1</sup> communicated by the Secretariat of the League of Nations. Only the articles pertinent to our subject are printed here.

(Translation)

Sua Maestà Vittorio Emanuele III Re d'Italia e Sua Maestà Zauditu Imperatrice di Etiopia

Hanno voluto che l'amicizia dei Loro due Stati divenga più salda e durevole e che le relazioni economiche tra i due Paesi vadano ampliandosi.

Percio' il Commendatore Giuliano Cora, Ministro Plenipotenziario del

His Majesty Victor Emmanuel III, King of Italy, and Her Majesty Zauditu, Empress of Abyssinia,

Are desirous of seeing the friendship between their two States still further strengthened and maintained and economic relations between the two countries promoted.

Accordingly, Commendatore Giuliano Cora, Minister Plenipo-

<sup>1</sup> The Amharic text is also authentic.



Regno d'Italia, in nome di Sua Maestà Vittorio Emanuele Terzo e Suoi Successori, e Sua Altezza Imperiale Tafari Maconnen, Erede del Trono e Reggente dell'Impero Etiopico, in nome dell'Imperatrice Zauditù, in nome Suo personale e dei Loro Successori,

Hanno convenuto quanto segue:

. . . . .

ARTICOLO 5. I due Governi si impegnano a sottoporre ad una procedura di conciliazione o di arbitrato le questioni che sorgeranno tra di loro e che non abbiano potuto essere risolte con i normali mezzi diplomatici, senza aver ricorso alla forza delle armi. Tra i due Governi di comune accordo saranno scambiate note circa il modo di scegliere gli arbitri.

. . . . .

ART. 7. Il presente trattato avrà la durata di venti anni dallo scambio delle ratifiche. Allo spirare di tale termine esso sarà rinnovabile di anno in anno.

Fatto in duplice copia e di identico tenore nelle due lingue ufficiali italiana ed amarica, una delle copie resta nelle mani del Governo Italiano e l'altra nelle mani del Governo Etiopico.

Addis Abeba 2 agosto 1928, Anno VI. (Il giorno 26 del mese di hamlé dell'anno 1901 della Misericordia.)

Giuliano Cora

l'Erede del trono di Etiopia,  
Tafari Maconnen

tentiary of the Kingdom of Italy, in the name of His Majesty Victor Emmanuel the Third and His Successors, and His Imperial Highness Tafari Makonnen, Heir to the Throne and Regent of the Abyssinian Empire, in the name of the Empress Zauditù, in His own name and in the name of Their Successors,

Have agreed as follows:

. . . . .

ARTICLE 5. Both Governments undertake to submit to a procedure of conciliation and arbitration disputes which may arise between them and which it may not have been possible to settle by ordinary diplomatic methods, without having recourse to armed force. Notes shall be exchanged by common agreement between the two Governments regarding the manner of appointing arbitrators.

. . . . .

ART. 7. The present Treaty is concluded for a period of twenty years from the date of the exchange of ratifications. On the expiration of this period it shall be renewable from year to year.

Done in two copies, of identical tenor, in the two official languages, Italian and Amharic, one copy to remain in the hands of the Italian Government and the other in the hands of the Abyssinian Government.

Addis Abeba, August 2, 1928, Year VI. (The twenty-sixth day of the month of Hamlé of the Year of Grace 1901.)

Giuliano Cora

Tafari Makonnen,

Heir to the Throne of  
Abyssinia

## No. 116

FINLAND-ITALY: TREATY OF CONCILIATION,  
ARBITRATION, AND COMPULSORY  
ADJUDICATION

Signed at Helsingfors August 21, 1928; ratifications exchanged April 26, 1929.

Original text communicated by the Secretariat of the League of Nations.<sup>1</sup>

(Translation)

Sa Majesté le Roi d'Italie et le Président de la République de Finlande, animés du désir de resserrer toujours davantage les liens d'amitié qui unissent l'Italie et la Finlande, ont résolu de conclure un Traité pour le règlement amiable des différends qui pourraient s'élever entre les deux Pays et ont nommé à cet effet pour leurs Plénipotentiaires, savoir:

Sa Majesté le Roi d'Italie:

Monsieur le Comte Emilio Pagliano, Envoyé Extraordinaire et Ministre Plénipotentiaire d'Italie en Finlande;

Le Président de la République de Finlande:

Monsieur H. J. Procopé, Ministre des Affaires Etrangères,

lesquels, après s'être communiqué leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Les Parties contractantes s'engagent à soumettre à une procédure de conciliation, préalablement à toute procédure judiciaire, tous les différends, de quelque nature qu'ils soient, qui viendraient à s'élever entre elles et n'auraient pu être résolus par la voie diplomatique.

Dans un délai raisonnable il appartiendra à chacune des Parties

His Majesty the King of Italy and the President of the Finnish Republic, being desirous of strengthening still further the ties of friendship which unite Italy and Finland, have decided to conclude a treaty for the friendly settlement of disputes which may arise between the two countries and have for this purpose appointed as their Plenipotentiaries:

His Majesty the King of Italy:  
Count Emilio Pagliano, Envoy Extraordinary and Minister Plenipotentiary of Italy in Finland;

The President of the Finnish Republic:

M. H. J. Procopé, Minister for Foreign Affairs,

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE I. The Contracting Parties undertake, before having recourse to any judicial procedure, to submit to a procedure of conciliation all disputes of any nature whatsoever which may arise between them and which it may not have been possible to settle through the diplomatic channel.

It shall be for each of the Contracting Parties to decide, within a

<sup>1</sup> See also League of Nations, *Treaty Series*, LXXXIX, 26-34.

contractantes de décider du moment à partir duquel la procédure de conciliation pourra être substituée aux négociations diplomatiques.

ART. 2. \* Lorsqu'il s'agit d'un litige que, aux termes de la législation de l'une des Parties, relève de la compétence d'une autorité judiciaire, la Partie défenderesse pourra s'opposer à ce qu'il soit soumis à une procédure de conciliation et, le cas échéant, à un règlement judiciaire, tant qu'il n'aura pas fait l'objet d'une décision définitive de la part de cette autorité judiciaire. Au cas où la Partie demanderesse entendrait contester cette décision judiciaire, le litige devra être soumis à la procédure de conciliation une année au plus tard à compter de cette décision.

ART. 3. Dans les six mois qui suivront l'échange des ratifications du présent traité, les Parties contractantes institueront une Commission permanente de conciliation, composée de cinq membres.

Les Parties nommeront chacune un membre à leur gré et désigneront les trois autres d'un commun accord. Ces trois membres ne devront, ni être des ressortissants des Parties contractantes, ni avoir leur domicile sur leur territoire ou se trouver à leur service.

Le président de la Commission sera nommé d'un commun accord parmi les membres à désigner en commun.

Les membres de la Commission seront nommés pour trois ans. Sauf accord contraire entre les Parties, les membres désignés en commun ne pourront être révoqués pendant la durée de leur mandat.

reasonable time, at what moment the procedure of conciliation may be substituted for the diplomatic negotiations.

ART. 2. In the case of a dispute which, according to the laws of one of the Parties, comes within the jurisdiction of a judicial authority, the defendant Party may oppose the submission of the dispute to a procedure of conciliation and, if necessary, to judicial settlement so long as a final decision thereon has not been given by the judicial authority in question. Should the plaintiff Party desire to contest this judicial decision, the dispute must be submitted to the procedure of conciliation within one year at most from the date of such decision.

ART. 3. The Contracting Parties shall establish a Permanent Conciliation Commission, composed of five members, within six months after the ratifications of the present Treaty have been exchanged.

Each Party shall nominate one member of its own choosing, the other three being appointed by agreement between the Parties. These three members may not be nationals of the Contracting Parties, nor be domiciled in their territory, nor employed in their service.

The President of the Commission shall be appointed by agreement between the Parties from among the jointly selected members.

The members of the Commission shall be appointed for three years. Unless otherwise agreed between the Parties, the appointments of the members jointly selected shall not be revoked during their term of office.

ART. 4. En cas de décès ou de retraite de l'un des membres de la Commission de conciliation, il devra être pourvu à son remplacement pour le reste de la durée de son mandat, si possible dans les trois mois qui suivront, et, en tout cas, aussitôt qu'un différend aura été soumis à la Commission.

Au cas où l'un des membres de la Commission de conciliation désignés en commun par les Parties contractantes serait momentanément empêché de prendre part aux travaux de la Commission par suite de maladie ou de toute autre circonstance, les Parties s'entendront pour désigner un suppléant, qui siègera temporairement à sa place. Si la désignation de ce suppléant n'intervient pas dans un délai de trois mois à compter de la vacance temporaire du siège, il sera procédé conformément à l'article 5 du présent traité.

Si, à l'expiration du mandat d'un membre de la Commission, il n'est pas pourvu à son remplacement, son mandat est censé renouvelé pour une période de trois ans; les Parties se réservent, toutefois, de transférer, à l'expiration du terme de trois ans, les fonctions du président à un autre des membres de la Commission désignés en commun.

Un membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part à l'examen du différend jusqu'à ce que la procédure soit terminée, nonobstant le fait que son remplaçant aurait été désigné.

ART. 5. Si la désignation des membres de la Commission de conciliation à désigner en commun ou du président n'intervient pas dans le délai prévu de six mois ou, en cas de remplacement, dans les trois mois à compter de la vacance du

ART. 4. Vacancies which may occur as a result of the death or retirement of any member of the Conciliation Commission shall be filled for the remainder of the term of office of such member, if possible within the following three months, and in any case as soon as a dispute is submitted to the Commission.

Should one of the members of the Conciliation Commission appointed by common agreement by the Contracting Parties be temporarily prevented by illness or any other cause from taking part in the work of the Commission, the Parties shall agree to appoint a substitute to take his place for the time being. If the appointment of this substitute is not made within three months from the time when the seat became temporarily vacant, the procedure laid down in Article 5 of the present Treaty shall apply.

If upon the expiration of the term of office of a member of the Commission, no arrangement has been made for his replacement, his term of office shall be deemed to be renewed for a period of three years. Nevertheless, the Parties reserve the right to transfer, on the expiration of the term of three years, the functions of the President to another of the members of the Commission appointed by common agreement.

A member whose term of office expires while a procedure is in progress shall continue to take part in the examination of the dispute until the close of the procedure, even if his successor has been appointed.

ART. 5. If the appointment of the members of the Conciliation Commission who are to be nominated jointly, or of the President, is not made within the prescribed period of six months, or, in case of replacement, within three months

siège, les nominations seront effectuées, à la demande d'une seule des Parties, par le Président de la Cour permanente de Justice internationale ou, si celui-ci est ressortissant de l'un des Etats contractants, par le Vice-Président ou, si celui-ci se trouve dans le même cas, par le membre le plus âgé de la Cour.

ART. 6. Dans un délai de quinze jours à compter de la date à laquelle l'une des Parties contractantes aura porté un différend devant la Commission de conciliation, chacune des Parties pourra, pour l'examen de ce différend, remplacer le membre permanent désigné par elle par une personne possédant une compétence spéciale dans la matière.

La Partie qui voudrait user de ce droit en avertira immédiatement l'autre Partie; celle-ci aura, dans ce cas, la faculté d'user du même droit dans un délai de quinze jours à partir du jour où l'avertissement lui sera parvenu.

Chaque Partie se réserve, cependant, de nommer immédiatement un suppléant pour remplacer temporairement le membre permanent désigné par elle qui, par suite de maladie ou de toute autre circonstance, se trouverait momentanément empêché de prendre part aux travaux de la Commission.

ART. 7. La Commission de conciliation aura pour tâche de faciliter la solution du différend en éclaircissant, par un examen impartial et consciencieux, les questions de fait et en formulant des propositions en vue du règlement du litige, conformément aux dispositions de l'article 12 du présent traité.

La Commission sera saisie sur requête adressée à son président par l'une des Parties contractantes. Notification de cette requête sera faite, en même temps, à la Partie

after the vacancy occurs, the appointments shall be made, at the request of either Party, by the President of the Permanent Court of International Justice, or, should the latter be a national of one of the contracting States, by the Vice-President, or, should the latter be in the same position, by the oldest member of the Court.

ART. 6. Within fifteen days from the date on which one of the Contracting Parties shall have brought a dispute before the Conciliation Commission, either Party may, for the examination of this dispute, replace the permanent member whom it has appointed by a person possessing special competence in the matter.

The Party intending to make use of this right shall immediately inform the other Party; in this case the latter shall be entitled to avail itself of the same right within fifteen days from the date on which it shall have received notification.

Each Party, however, reserves the right to appoint immediately a deputy to replace temporarily a permanent member appointed by it who may be prevented for a time by illness or any other cause from taking part in the work of the Commission.

ART. 7. The task of the Conciliation Commission shall be to facilitate the settlement of the dispute by elucidating questions of fact through an impartial and conscientious inquiry and by formulating proposals for the settlement of the dispute, in conformity with the provisions of Article 12 of the present Treaty.

The Commission shall be informed of a dispute by means of a request addressed to the President of the Commission by either of

adverse par la Partie qui demandera l'ouverture de la procédure de conciliation.

ART. 8. La Commission de conciliation se réunira, sauf accord contraire, au lieu désigné par son président.

ART. 9. La procédure devant la Commission de conciliation sera contradictoire.

La Commission réglera elle-même la procédure, en tenant compte, sauf décision contraire prise à l'unanimité, des dispositions contenues au Titre III de la Convention de La Haye, du 18 octobre 1907, pour le règlement pacifique des conflits internationaux.

Les délibérations de la Commission auront lieu à huis clos, à moins que la Commission, d'accord avec les Parties, n'en décide autrement.

ART. 10. Sauf disposition contraire du présent traité, les décisions de la Commission de conciliation seront prises à la majorité des voix. Chaque membre disposera d'une voix.

ART. 11. Les Parties contractantes fourniront à la Commission de conciliation toutes les informations utiles et lui faciliteront, à tous égards et dans toute la mesure du possible, l'accomplissement de sa tâche.

ART. 12. La Commission de conciliation présentera son rapport dans les six mois à compter du jour où elle aura été saisie du différend, à moins que les Parties contractantes ne décident, d'un commun accord, de proroger ce délai.

the Contracting Parties. Notification of such request shall at the same time be made to the opposite Party by the Party which has asked for the opening of the conciliation procedure.

ART. 8. The Conciliation Commission shall, in the absence of any agreement to the contrary, meet at the place selected by its President.

ART. 9. In proceedings before the Commission both Parties shall be heard.

The Commission shall draw up its own rules of procedure, regard being had, in the absence of a unanimous decision to the contrary, to the provisions of Part III of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

The deliberations of the Commission shall be private unless the Commission, in agreement with the Parties, decides otherwise.

ART. 10. Unless otherwise provided in the present Treaty, the decisions of the Conciliation Commission shall be taken by a majority vote. Each member shall have one vote.

ART. 11. The Contracting Parties shall supply the Conciliation Commission with all relevant information, and shall facilitate its work in every respect and to the greatest possible extent.

ART. 12. The Conciliation Commission shall make its report within six months from the date on which the dispute is submitted to it, unless the Contracting Parties decide by common agreement to extend this period.

Le rapport comportera un projet de règlement du différend toutes les fois que les circonstances le permettront.

L'avis motivé des membres restés en minorité sera consigné dans le rapport.

Un exemplaire du rapport, signé par le président, sera soumis à chacune des Parties.

Le rapport de la Commission n'aura, ni en ce qui concerne l'exposé des faits, ni en ce qui concerne les considérations juridiques, le caractère d'une sentence arbitrale.

ART. 13. Les Parties porteront à leur connaissance réciproque, ainsi qu'à la connaissance du président de la Commission de conciliation, dans un délai raisonnable, n'excédant toutefois pas la durée de trois mois, si elles acceptent les conclusions du rapport et les propositions qui y sont contenues.

Il appartiendra aux Parties de décider, d'un commun accord, si le rapport de la Commission, et le procès-verbal des débats peuvent être publiés avant l'expiration du délai dans lequel elles doivent se prononcer sur les propositions formulées dans le rapport.

ART. 14. Pendant la durée effective de la procédure, les membres de la Commission de conciliation recevront une indemnité dont le montant sera arrêté entre les Parties contractantes.

Chaque Partie supportera ses propres frais et une part égale des frais de la Commission.

ART. 15. Si l'une des Parties contractantes n'accepte pas les propositions de la Commission de conciliation ou ne se prononce pas dans le délai fixé par son rapport, chacune d'entre elles pourra de-

The report shall include, whenever circumstances permit, proposals for the settlement of the dispute.

The opinion of the members who are in the minority, accompanied by a statement of reasons, shall be included in the report.

A copy of the report, signed by the President, shall be sent to each Party.

The report of the Commission shall not be in the nature of an arbitral award as regards either the statement of facts or the legal considerations.

ART. 13. The Parties shall inform each other and the President of the Conciliation Commission within a reasonable period, which shall not in any case exceed three months, whether they accept the findings of the report and the proposals contained therein.

It will be for the Parties to decide by agreement whether the report of the Commission and the minutes of the discussions may be published before the expiration of the period during which they have to give their opinion on the proposals in the report.

ART. 14. For the actual duration of the procedure, the members of the Conciliation Commission shall receive an allowance to be fixed by arrangement between the Contracting Parties.

Each Party shall bear its own costs and half the costs of the Commission.

ART. 15. If one of the Contracting Parties does not accept the proposals of the Conciliation Commission or does not announce its decision within the period prescribed in the report, either Party

mander que le litige soit soumis à la Cour permanente de Justice internationale.

Dans le cas où, de l'avis de la Cour, le litige ne serait pas d'ordre juridique, les Parties conviennent qu'il sera tranché *ex aequo et bono*.

ART. 16. Les Parties contractantes établiront, dans chaque cas particulier, un compromis spécial déterminant nettement l'objet du différend, les compétences particulières qui pourraient être dévolues à la Cour permanente de Justice internationale, ainsi que toutes autres conditions arrêtées entre elles.

Le compromis sera établi par échange de notes entre les Gouvernements des Parties contractantes.

Il sera interprété en tous points par la Cour de Justice.

Si le compromis n'est pas arrêté dans les trois mois à compter du jour où l'une des Parties a été saisie d'une demande aux fins de règlement judiciaire, chaque Partie pourra saisir la Cour de Justice par voie de simple requête.

ART. 17. Si la Cour permanente de Justice internationale établissait qu'une décision d'une instance judiciaire ou de toute autre autorité relevant de l'une des Parties contractantes se trouve entièrement ou partiellement en opposition avec le droit des gens et si le droit constitutionnel de cette Partie ne permettrait pas ou ne permettrait qu'imparfaitement d'effacer par voie administrative les conséquences de la décision dont il s'agit, il serait accordé à la Partie lésée une satisfaction équitable d'un autre ordre.

ART. 18. L'arrêt rendu par la Cour permanente de Justice inter-

may request that the dispute be submitted to the Permanent Court of International Justice.

If in the opinion of the Court the case is not of a juridical nature, the Parties agree to its being settled *ex aequo et bono*.

ART. 16. In each particular case the Contracting Parties shall draw up a special agreement laying down clearly the subject of the dispute, the particular competence that might devolve upon the Permanent Court of International Justice, and any other conditions fixed between themselves.

The agreement shall be constituted by an exchange of notes between the Governments of the Contracting Parties.

All points contained therein shall be interpreted by the Court of Justice.

If the agreement is not drawn up within three months from the day on which one of the Parties was requested to submit the matter for judicial settlement, either Party may bring the question before the Court of Justice by means of a simple application.

ART. 17. Should the Permanent Court of International Justice find that a decision of a court of law or of any other authority of one of the Contracting Parties is wholly or partly at variance with international law, and should the constitutional law of that Party not allow, or only inadequately allow, of the consequences of the decision in question being annulled by administrative procedure, the Party prejudiced shall be granted equitable satisfaction in some other form.

ART. 18. The judgment given by the Permanent Court of Interna-



nationale sera exécuté de bonne foi par les Parties.

Les difficultés auxquelles son interprétation pourrait donner lieu seront tranchées par la Cour de Justice, que chacune des Parties pourra saisir à cette fin par voie de simple requête.

ART. 19. Durant le cours de la procédure de conciliation ou de la procédure judiciaire, les Parties contractantes s'abstiendront de toute mesure pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission de conciliation ou sur l'exécution de l'arrêt de la Cour permanente de Justice internationale.

ART. 20. Les contestations qui surgiraient au sujet de l'interprétation ou de l'exécution du présent traité seront, sauf convention contraire, soumises directement à la Cour permanente de Justice internationale par voie de simple requête.

ART. 21. Le présent traité sera ratifié. Les instruments de ratification en seront échangés à Rome dans le plus bref délai possible.

Le traité entrera en vigueur dès l'échange des ratifications. Il est conclu pour la durée de dix ans à compter de son entrée en vigueur. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il sera censé être renouvelé pour une nouvelle période de cinq ans, et ainsi de suite.

Si une procédure de conciliation ou une procédure judiciaire est pendante lors de l'expiration du présent traité, elle suivra son cours conformément aux dispositions du présent traité ou de toute autre convention que les Parties con-

tional Justice shall be executed by the Parties in good faith.

Any difficulties to which the interpretation of the judgment may give rise shall be settled by the Court of Justice, which may be resorted to for this purpose by either Party by means of a simple application.

ART. 19. During the procedure of conciliation or the judicial procedure, the Contracting Parties shall abstain from any measure which might prejudicially affect the acceptance of the proposals of the Conciliation Commission or the execution of the judgment of the Permanent Court of International Justice.

ART. 20. Any disputes which may arise as to the interpretation or the execution of the present Treaty shall, in the absence of any agreement to the contrary, be submitted directly to the Permanent Court of International Justice by means of a simple application.

ART. 21. The present Treaty shall be ratified. The instruments of ratification shall be exchanged at Rome as soon as possible.

The Treaty shall come into force upon the exchange of ratifications. It is concluded for a period of ten years from the date of its coming into force. Unless denounced six months before the expiration of this period it shall be deemed to have been renewed for a further period of five years, and similarly thereafter.

If a procedure of conciliation or a judicial procedure is pending at the time of the expiration of the present Treaty, such procedure shall pursue its course in accordance with the provisions of the

tractantes seraient convenues de lui substituer.

En foi de quoi, les Plénipotentiaires ont signé le présent traité.

Fait, en double exemplaire, à Helsinki, le 21 août 1928.

Pagliano

Hj. J. Procopé

present Treaty or any other Convention which the Contracting Parties may have agreed to substitute therefor.

In witness whereof the Plenipotentiaries have signed the present Treaty.

Done in duplicate at Helsingfors, August 21, 1928.

Pagliano

Hj. J. Procopé

#### PERMANENT COMMISSION OF CONCILIATION

No information available.

### No. 117

#### AUSTRIA-THE UNITED STATES OF AMERICA: TREATY OF INVESTIGATION

Signed at Washington August 16, 1928; ratifications exchanged February 28, 1929.

Original text<sup>1</sup> from United States of America, *Treaty Series*, No. 777.<sup>2</sup>

The President of the United States of America and the Federal President of the Republic of Austria, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their Plenipotentiaries:

The President of the United States of America, Mr. Frank B. Kellogg, Secretary of State of the United States of America; and

The Federal President of the Republic of Austria, Mr. Edgar L. G. Prochnik, Envoy Extraordinary and Minister Plenipotentiary to the United States of America,

Who, after having communicated to each other their respective full powers, found to be in proper form, have agreed upon and concluded the following articles:

ARTICLE I. Any disputes arising between the Government of the United States of America and the Government of Austria, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the High Contracting Parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report to a permanent International Commission constituted in the manner prescribed in the next succeeding Article; and the High Contracting Parties agree not to declare war or begin hostilities during such investigation and before the report is submitted.

<sup>1</sup> The German text is also authentic.

<sup>2</sup> See also League of Nations, *Treaty Series*, LXXXVIII, 102-104.

ART. II. The International Commission shall be composed of five members, to be appointed as follows: One member shall be chosen from each country, by the Government thereof; one member shall be chosen by each Government from some third country; the fifth member shall be chosen by common agreement between the two Governments, it being understood that he shall not be a citizen of either country. The expenses of the Commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.

ART. III. In case the High Contracting Parties shall have failed to adjust a dispute by diplomatic methods, and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, spontaneously by unanimous agreement offer its services to that effect, and in such case it shall notify both Governments and request their cooperation in the investigation.

The high Contracting Parties agree to furnish the Permanent International Commission with all the means and facilities required for its investigation and report.

The report of the Commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the High Contracting Parties shall limit or extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each Government, and the third retained by the Commission for its files.

The High Contracting Parties reserve the right to act independently on the subject matter of the dispute after the report of the Commission shall have been submitted.

ART. IV. The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof, and by Austria in accordance with its constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the English and German languages, both texts having equal force, and hereunto affixed their seals.

Done at Washington the sixteenth day of August in the year of our Lord one thousand nine hundred and twenty-eight.

Frank B. Kellogg  
Edgar Prochnik

PERMANENT COMMISSION OF INVESTIGATION

No information available.

## No. 118

AUSTRIA-THE UNITED STATES OF AMERICA: TREATY  
OF ARBITRATION

Signed at Washington August 16, 1928; ratifications exchanged February 28, 1929.

Original text <sup>1</sup> from United States of America, *Treaty Series*, No. 776.<sup>2</sup>

The President of the United States of America and the Federal President of the Republic of Austria

Determined to prevent so far as in their power lies any interruption in the peaceful relations now happily existing between the two nations;

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them; and

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the Powers of the world;

Have decided to conclude a new treaty of arbitration enlarging the scope and obligations of the arbitration convention which was signed at Washington, January 15, 1909, but is not now in force, and for that purpose they have appointed as their respective Plenipotentiaries

The President of the United States of America, Mr. Frank B. Kellogg, Secretary of State of the United States of America; and

The Federal President of the Republic of Austria, Mr. Edgar L. G. Prochnik, Envoy Extraordinary and Minister Plenipotentiary to the United States of America,

Who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I. All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to an appropriate commission of conciliation, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

<sup>1</sup> The German text is also authentic.

<sup>2</sup> See also League of Nations, *Treaty Series*, LXXXVIII, 96-99.

The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of Austria in accordance with its constitutional laws.

ART. II. The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(a) is within the domestic jurisdiction of either of the High Contracting Parties,

(b) involves the interests of third Parties,

(c) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine,

(d) depends upon or involves the observance of the obligations of Austria in accordance with the Covenant of the League of Nations.

ART. III. The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by Austria in accordance with its constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the English and German languages, both texts having equal force, and hereunto affixed their seals.

Done at Washington the sixteenth day of August in the year of our Lord one thousand nine hundred and twenty-eight.

Frank B. Kellogg  
Edgar Prochnik

## No. 119

### CZECHOSLOVAKIA-THE UNITED STATES OF AMERICA: TREATY OF INVESTIGATION

Signed at Washington August 16, 1928; ratifications exchanged April 11, 1929.

Original text <sup>1</sup> from United States of America, *Treaty Series*, No. 782.<sup>2</sup>

The President of the United States of America and the President of the Czechoslovak Republic, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their Plenipotentiaries:

The President of the United States of America:

<sup>1</sup> The Czechoslovak text is also authentic.

<sup>2</sup> See also League of Nations, *Treaty Series*, LXXXIX, 220-222.

Mr. Frank B. Kellogg, Secretary of State of the United States of America; and

The President of the Czechoslovak Republic:

Mr. Zdeněk Fierlinger, Envoy Extraordinary and Minister Plenipotentiary of the Czechoslovak Republic at Washington;

Who, after having communicated to each other their respective full powers, found to be in proper form, have agreed upon and concluded the following articles:

ARTICLE I. Any disputes arising between the Government of the United States of America and the Government of Czechoslovakia, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the High Contracting Parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report to a permanent International Commission constituted in the manner prescribed in the next succeeding Article; and they agree not to declare war or begin hostilities during such investigation and before the report is submitted.

ART. II. The International Commission shall be composed of five members, to be appointed as follows: One member shall be chosen from each country, by the Government thereof; one member shall be chosen by each Government from some third country; the fifth member shall be chosen by common agreement between the two Governments, it being understood that he shall not be a citizen of either country. The expenses of the Commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.

ART. III. In case the High Contracting Parties shall have failed to adjust a dispute by diplomatic methods, and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, spontaneously by unanimous agreement offer its services to that effect, and in such case it shall notify both Governments and request their coöperation in the investigation.

The High Contracting Parties agree to furnish the Permanent International Commission with all the means and facilities required for its investigation and report.

The report of the Commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the High Contracting Parties shall limit or extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each Government, and the third retained by the Commission for its files.

The High Contracting Parties reserve the right to act independently on the subject matter of the dispute after the report of the Commission shall have been submitted.

ART. IV. The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the

Senate thereof, and by Czechoslovakia in accordance with its constitutional laws.

The ratifications shall be exchanged at Prague as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the English and Czechoslovak languages, both texts having equal force, and hereunto affixed their seals.

Done at Washington the sixteenth day of August in the year of our Lord one thousand nine hundred and twenty-eight.

Frank B. Kellogg  
Zd. Fierlinger

PERMANENT COMMISSION OF INVESTIGATION

No information available.

No. 120

CZECHOSLOVAKIA-THE UNITED STATES OF AMERICA:  
TREATY OF ARBITRATION

Signed at Washington August 16, 1928; ratifications exchanged April 11, 1929.

Original text <sup>1</sup> from United States of America, *Treaty Series*, No. 781.<sup>2</sup>

The President of the United States of America and the President of the Czechoslovak Republic

Determined to prevent so far as in their power lies any interruption in the peaceful relations that have always existed between the two nations;

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them; and

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the peaceful settlement of international disputes shall have eliminated forever the possibility of war among any of the Powers of the world;

Have decided to conclude a treaty of arbitration and for that purpose they have appointed as their respective Plenipotentiaries

The President of the United States of America:

Mr. Frank B. Kellogg, Secretary of State of the United States of America; and

The President of the Czechoslovak Republic:

<sup>1</sup> The Czechoslovak text is also authentic.

<sup>2</sup> See also League of Nations, *Treaty Series*, LXXXIX, 226-228.

Mr. Zdeněk Fierlinger, Envoy Extraordinary and Minister Plenipotentiary of the Czechoslovak Republic at Washington;

Who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I. All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to an appropriate commission of conciliation, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of Czechoslovakia in accordance with its constitutional laws.

ART. II. The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(a) is within the domestic jurisdiction of either of the High Contracting Parties,

(b) involves the interests of third Parties,

(c) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine,

(d) depends upon or involves the observance of the obligations of Czechoslovakia in accordance with the Covenant of the League of Nations.

ART. III. The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by Czechoslovakia in accordance with its constitutional laws.

The ratifications shall be exchanged at Prague as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the English and Czechoslovak languages, both texts having equal force, and hereunto affixed their seals.

Done at Washington the sixteenth day of August in the year of our Lord one thousand nine hundred and twenty-eight.

Frank B. Kellogg  
Zd. Fierlinger



## No. 121

POLAND-THE UNITED STATES OF AMERICA:  
TREATY OF INVESTIGATION

Signed at Washington August 16, 1928; ratification exchanged January 4, 1930.

Original text <sup>1</sup> communicated by the Polish Delegation to the League of Nations.<sup>2</sup>

The President of the Republic of Poland and the President of the United States of America, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their Plenipotentiaries:

The President of the Republic of Poland:

Mr. Jan Ciechanowski, Envoy Extraordinary and Minister Plenipotentiary of Poland to the United States;

The President of the United States of America:

Mr. Frank B. Kellogg, Secretary of State of the United States;

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon the following articles:

ARTICLE I. Any disputes arising between the Government of Poland and the Government of the United States of America, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the High Contracting Parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report to a permanent International Commission constituted in the manner prescribed in the next succeeding Article; and they agree not to declare war or begin hostilities during such investigation and before the report is submitted.

ART. II. The International Commission shall be composed of five members, to be appointed as follows: one member shall be chosen from each country, by the Government thereof; one member shall be chosen by each Government from some third country; the fifth member shall be chosen by common agreement between the two Governments, it being understood that he shall not be a citizen of either country.

The expenses of the Commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.

ART. III. In case the High Contracting Parties shall have failed to adjust a dispute by diplomatic methods, and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the

<sup>1</sup> The Polish text is also authentic.

<sup>2</sup> See also United States of America, *Treaty Series*, No. 806.

International Commission for investigation and report. The International Commission may, however, spontaneously by unanimous agreement offer its services to that effect, and in such case it shall notify both Governments and request their cooperation in the investigation.

The High Contracting Parties agree to furnish the Permanent International Commission with all the means and facilities required for its investigation and report.

The report of the Commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the High Contracting Parties shall limit or extend the time by mutual agreement.

The report shall be prepared in triplicate; one copy shall be presented to each Government, and the third retained by the Commission for its files.

The High Contracting Parties reserve the right to act independently on the subject matter of the dispute after the report of the Commission shall have been submitted.

ART. IV. The present treaty shall be ratified by the President of the Republic of Poland in accordance with Polish constitutional law, and by the President of the United States of America by and with the advice and consent of the Senate thereof.

The ratifications shall be exchanged at Warsaw as soon as possible, and the treaty shall take effect on the thirtieth day after the date of the exchange of ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate, each in the Polish and English languages, both texts having equal force, and hereunto affixed their seals.

Done at Washington the 16th day of August in the year of our Lord one thousand nine hundred and twenty-eight.

Jan Ciechanowski  
Frank B. Kellogg

PERMANENT COMMISSION OF INVESTIGATION

No information available.

## No. 122

POLAND—THE UNITED STATES OF AMERICA:  
TREATY OF ARBITRATION

Signed at Washington August 16, 1928; ratifications exchanged January 4, 1930.

Original text<sup>1</sup> communicated by the Polish Delegation to the League of Nations.<sup>2</sup>

The President of the Republic of Poland and the President of the United States of America,

Determined to prevent so far as in their power lies any interruption in the peaceful relations that have always existed between the two nations;

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them; and

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the Powers of the world;

Have decided to conclude a treaty of arbitration and for that purpose they have appointed as their respective Plenipotentiaries:

The President of the Republic of Poland:

Mr. Jan Ciechanowski, Envoy Extraordinary and Minister Plenipotentiary of Poland to the United States;

The President of the United States of America:

Mr. Frank B. Kellogg, Secretary of State of the United States of America;

Who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I. All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to an appropriate commission of conciliation, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907, or to some other competent tribunal, as shall be decided in each case by special treaty, which special treaty shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

The special treaty in each case shall be made on the part of Poland by the President of the Republic of Poland in accordance with Polish consti-

<sup>1</sup> The Polish text is also authentic.

<sup>2</sup> See also United States of America, *Treaty Series*, No. 805.

tutional law and on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof.

ART. II. The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(a) is within the domestic jurisdiction of either of the High Contracting Parties,

(b) involves the interests of third Parties,

(c) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine,

(d) depends upon or involves the observance of the obligations of Poland in accordance with the Covenant of the League of Nations.

ART. III. The present treaty shall be ratified by the President of the Republic of Poland in accordance with Polish constitutional law and by the President of the United States of America by and with the advice and consent of the Senate thereof.

The ratifications shall be exchanged at Warsaw as soon as possible, and the treaty shall take effect on the thirtieth day after the date of the exchange of the ratifications.

It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate, each in the Polish and English languages, both texts having equal force, and hereunto affixed their seals.

Done at Washington the 10th day of August in the year of our Lord one thousand nine hundred and twenty-eight.

Jan Ciechanowski  
Frank B. Kellogg

### No. 123

#### GREECE-ITALY: TREATY OF CONCILIATION, ARBITRATION, AND COMPULSORY ADJUDICATION

Signed at Rome September 23, 1928; ratifications not yet exchanged.

Original text communicated by the Greek Legation at Berne.

Articles 1-4 are omitted as not pertinent to the subject of this volume.

(Translation)

Sa Majesté le Roi d'Italie et le  
Président de la République Hel-  
lenique

Tenant compte des liens de sin-  
cère amitié et de confiance mutuelle  
qui unissent si heureusement les

His Majesty the King of Italy  
and the President of the Hellenic  
Republic,

Bearing in mind the ties of sin-  
cere friendship and mutual confi-  
dence that so happily unite their

deux Pays et voulant affirmer par un acte solennel leur désir d'une collaboration d'ordre politique et économique dans le but de contribuer à l'oeuvre de la paix générale,

Ayant un souci égal du maintien de l'état de paix et de stabilité politique conformément aux principes établis par le Pacte de la Société des Nations,

Considérant que la fidèle observation des procédures pacifiques permet d'arriver au règlement des différends sans avoir recours à la force et

Estimant qu'il est de leur devoir de contribuer à la consécration pratique de ces principes,

Ont résolu de conclure à ces fins un pacte d'amitié, de conciliation et de règlement judiciaire, et ont nommé leurs plénipotentiaires, savoir:

Sa Majesté le Roi d'Italie:

Son Excellence le Chevalier Benito Mussolini, Chef du Gouvernement, Premier Ministre Secrétaire d'Etat, Ministre Secrétaire d'Etat pour les Affaires Etrangères:

Le Président de la République Hellenique:

Son Excellence Monsieur Eleutherios Venizelos, Président du Conseil des Ministres;

Lesquels, après avoir échangé leurs pleins pouvoirs reconnus en bonne et due forme, sont convenus des dispositions suivantes:

two countries, and being anxious to affirm by a solemn act their desire to coöperate politically and economically in order to contribute to the ideal of universal peace,

Being equally desirous of maintaining the state of peace and political stability in accordance with the principles laid down in the Covenant of the League of Nations,

Considering that by faithful adherence to pacific methods it is possible to arrive at a settlement of disputes without resorting to force, and

Holding it to be their duty to contribute to the practical establishment of these principles,

Have resolved to conclude for these purposes a pact of friendship, conciliation, and judicial settlement, and have appointed for their plenipotentiaries, that is to say:

His Majesty the King of Italy:

His Excellency Cav. Benito Mussolini, Head of the Government, Prime Minister-Secretary of State, Minister-Secretary of State for Foreign Affairs;

The President of the Hellenic Republic:

His Excellency Monsieur Eleutherios Venizelos, Prime Minister;

Who, having exchanged their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 5. La Grèce et l'Italie s'engagent à soumettre à la procédure de conciliation prévue dans les articles 8 à 19 ci-après toutes les questions qui viendraient à les diviser et qui n'auraient pu être résolues par les procédés diplomatiques ordinaires.

En cas d'échec de la procédure de conciliation un règlement judiciaire sera recherché conformément

ARTICLE 5. Greece and Italy undertake to submit to the procedure of conciliation provided for in Articles 8 to 19 below all questions that may arise to divide them and which it may have proved impossible to settle by the ordinary diplomatic methods.

In the event of the failure of the procedure of conciliation, a judicial settlement shall be sought as pro-

aux articles 20 et suivants du présent traité.

ART. 6. Les différends pour la solution desquels une procédure spéciale serait prévue par d'autres conventions en vigueur entre les Parties en litige seront réglés conformément aux dispositions de ces conventions.

ART. 7. 1. S'il s'agit d'un différend dont l'objet, d'après la législation intérieure de l'une des Parties, relève de la compétence des autorités judiciaires ou administratives, cette Partie pourra s'opposer à ce que ce différend soit soumis aux diverses procédures prévues par la présente convention avant qu'une décision définitive ait été rendue dans des délais raisonnables par l'autorité compétente.

2. La Partie qui, dans ce cas, voudra recourir aux procédures prévues par la présente convention devra notifier à l'autre Partie son intention dans un délai d'un an, à partir de la décision susvisée.

ART. 8. Une Commission permanente de conciliation sera constituée dans les six mois qui suivront l'échange des ratifications du présent traité.

Cette Commission sera composée de trois membres. Les Hautes Parties contractantes nommeront chacune un commissaire choisi parmi leurs nationaux respectifs.

Elles désigneront, d'un commun accord, le président qui ne devra ni être ressortissant des Hautes Parties contractantes, ni avoir sa résidence habituelle sur leurs territoires, ni se trouver à leurs services. Si, à défaut d'entente, la nomination du président n'intervient pas dans le délai prévu à l'alinéa précédent, ou, en cas de remplacement,

vided in Articles 20 *et seq.* of the present treaty.

ART. 6. Disputes for the settlement of which a special procedure is laid down by other conventions in force between the Parties shall be settled in accordance with the provisions of such conventions.

ART. 7. 1. If the subject of the dispute is one which, according to the municipal law of one of the Parties, comes within the jurisdiction of the judicial or administrative authorities, that Party may oppose the submission of the dispute to the various procedures provided for in the present convention until a decision with final effect has been rendered within a reasonable time by the competent authority.

2. The Party desiring, in this case, to resort to the procedures provided for in this convention must notify the other Party of its intention within one year of the above-mentioned decision.

ART. 8. A Permanent Conciliation Commission shall be set up within six months from the exchange of the ratifications of the present treaty.

This Commission shall consist of three members. Each of the High Contracting Parties shall nominate one commissioner chosen from among its own nationals.

The Parties shall jointly appoint the President, who must not be a national of either of the High Contracting Parties, nor be habitually resident in their territories, nor be employed in their service. If no agreement is reached and the President is not appointed within the period laid down in paragraph 1, or, in the case of a vacancy, within three months from the oc-

dans les trois mois à compter de la vacance du siège, il sera désigné de la façon suivante:

Chacune des deux Hautes Parties contractantes présente deux candidats pris sur la liste des membres de la Cour Permanente de la Haye en dehors des membres désignés par les Parties et n'étant les nationaux d'aucune d'Elles. Le sort détermine lequel des candidats ainsi présentés sera le président.

Les commissaires sont nommés pour trois ans. Ils seront rééligibles. Ils resteront en fonctions jusqu'à leur remplacement et, en tous les cas, jusque à l'expiration de leur mandat.

Tant que la procédure n'est pas ouverte, chacune des Hautes Parties contractantes aura le droit de révoquer le commissaire nommé par Elle et de lui désigner un successeur. Elle aura aussi le droit de retirer son consentement à la nomination du président.

Il sera pourvu, dans le plus bref délai, aux vacances qui viendraient à se produire par suit d'expiration de mandat, de révocation, de décès, de démission ou de quelque autre empêchement, en suivant le mode fixé pour les nominations.

ART. 9. La Commission de conciliation sera saisie par voie de requête adressée au président, par les deux Parties agissant d'un commun accord, ou, à défaut, par l'une ou l'autre des Parties. La requête, après avoir exposé l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation.

currence of the vacancy, he shall be appointed in the following manner:

Each of the two High Contracting Parties presents two candidates selected from the list of members of the Hague Permanent Court, exclusive of the members named by the Parties, and not nationals of either of them. The President is then chosen from among these candidates by lot.

The commissioners are appointed for three years, and shall be reëligible. They shall remain in office until their successors have been appointed, and in any case until the expiration of their term of office.

Prior to the opening of proceedings, either High Contracting Party shall be entitled to cancel the appointment of the commissioner appointed by it and to appoint a successor to him. The Parties shall also be entitled to withdraw their consent to the appointment of the President.

Any vacancies that may occur through the expiration of a member's term of office, or through the cancellation of his appointment, or through his decease or resignation or any other cause that prevents him from acting, shall be filled as quickly as possible by the method followed in making appointments.

ART. 9. A dispute shall be laid before the Conciliation Commission by a request addressed to the President by the two Parties acting in concert, or, in the absence of such agreement, by either Party. The request shall contain a statement of the subject of the dispute, followed by an invitation to the Commission to take all steps calculated to lead to an amicable settlement.

Si la requête émane d'une seule des Parties, elle sera notifiée en même temps par celle-ci à l'autre Partie.

ART. 10. Dans un délai de quinze jours à partir de la date où l'une des Parties aura porté un différend devant la Commission de conciliation, chacune des Parties pourra, pour l'examen de ce différend, remplacer son commissaire par une personne possédant une compétence spéciale dans la matière.

La Partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie; celle-ci aura, dans ce cas, la faculté d'agir de même dans un délai de quinze jours à partir de la date où la notification lui sera parvenue.

ART. 11. La Commission de conciliation se réunira, sauf accord contraire des Parties, au lieu désigné par son président.

ART. 12. La Commission de conciliation aura pour tâche d'éclaircir les questions en litige, de recueillir à cette fin toutes les informations utiles et de s'efforcer de concilier les Parties.

Après examen de l'affaire elle formulera, dans un rapport, des propositions en vue du règlement du différend.

ART. 13. La procédure devant la Commission de conciliation sera contradictoire.

La Commission réglera elle-même la procédure en tenant compte, sauf décisions contraires prises à l'unanimité, des dispositions contenues au titre III de la Convention de la Haye du 18 Octobre 1907 pour le règlement pacifique des conflits internationaux.

If the request is made by only one of the Parties, that Party shall at the same time notify the other Party thereof.

ART. 10. Within the fortnight following the date on which one of the Parties has laid a dispute before the Conciliation Commission, either of the Parties may, for the examination of that dispute, replace its commissioner by a person possessing special qualifications in the matter.

The Party availing itself of this right shall immediately notify the other Party; in this case, the latter shall be entitled to take like action within a fortnight after receiving the notification.

ART. 11. Unless the Parties otherwise agree, the Conciliation Commission shall meet at the place selected by its President.

ART. 12. The task of the Conciliation Commission shall be to elucidate the questions in dispute, to collect all useful information with that object, and to endeavor to bring the Parties to an amicable settlement.

Having considered the case, it shall make a report embodying proposals for the settlement of the dispute.

ART. 13. In proceedings before the Conciliation Commission both Parties shall be heard.

The Commission shall settle its own procedure, adhering, unless it unanimously decides otherwise, to the provisions of Part III of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.



ART. 14. Les délibérations de la Commission de conciliation auront lieu à huis clos, à moins que la Commission, d'accord avec les Parties, n'en décide autrement.

ART. 15.<sup>4</sup> Les Parties auront le droit de nommer auprès de la Commission des agents, conseils et experts, qui serviront en même temps d'intermédiaires entre elles et la Commission, ainsi que de demander l'audition de toute personne dont le témoignage leur paraîtrait utile.

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties ainsi qu'à toute personne qu'elle jugerait utile de faire comparaître, avec l'assentiment de leurs Gouvernements.

ART. 16. Les Parties s'engagent à faciliter les travaux de la Commission de conciliation et en particulier à lui fournir, dans la plus large mesure possible, tous documents et informations utiles, ainsi qu'à user de tous les moyens dont elles disposent d'après leur législation pour lui permettre de procéder à la citation et à l'audition de témoins ou d'experts.

ART. 17. La Commission de conciliation présentera son rapport dans les quatre mois à compter du jour où elle a été saisie du différend, à moins que les Parties ne conviennent de prolonger ce délai.

Un exemplaire du rapport sera remis à chacune des Parties. Le rapport n'aura, ni quant à l'exposé des faits, ni quant aux considérants juridiques, le caractère d'une sentence arbitrale.

ART. 18. La Commission de conciliation fixera le délai dans lequel les Parties auront à se prononcer au sujet des propositions

ART. 14. The proceedings of the Conciliation Commission shall take place in private, unless the Commission, with the consent of the Parties, decides otherwise.

ART. 15. The Parties shall be entitled to accredit to the Commission agents, counsel, and experts, who shall also act as intermediaries between them and the Commission, and to request that any person whose testimony may seem to them of value be heard.

The Commission, for its part, shall be entitled to ask for oral explanations from the agents, counsel and experts of the two Parties, and from any persons whom it may think useful to summon with the consent of their Governments.

ART. 16. The Parties undertake to facilitate the labors of the Conciliation Commission, and in particular to supply it to the greatest possible extent with all relevant documents and information, and also to use all the means afforded by their legislation to allow it to summon and hear witnesses or experts.

ART. 17. The Conciliation Commission shall make its report within four months from the day on which the dispute is laid before it, unless the Parties agree to extend this time-limit.

A copy of the report shall be sent to each of the Parties. The report shall not have the character of an arbitral award, as regards either the statement of facts or the legal considerations.

ART. 18. The Conciliation Commission shall lay down a time-limit within which the Parties are to come to a decision upon the pro-

de règlements contenues dans son rapport. Ce délai ne dépassera pas trois mois.

ART. 19. Pendant la durée effective de la procédure, chacun des commissaires recevra une indemnité dont le montant sera arrêté de commun accord des Parties qui en supporteront chacune une partie égale.

Les frais généraux occasionnés par le fonctionnement de la Commission seront répartis de la même façon.

ART. 20. Si l'une des Parties n'accepte pas les propositions de la Commission de conciliation ou ne se prononce pas dans le délai fixé par son rapport, chacune d'Elles pourra demander que le litige soit soumis à la Cour Permanente de Justice Internationale.

Dans le cas où, de l'avis de la Cour de Justice, le litige ne serait pas d'ordre juridique, les Parties conviennent qu'il sera tranché *ex aequo et bono*.

ART. 21. Les Parties contractantes établiront, dans chaque cas particulier, un compromis spécial déterminant nettement l'objet du différend, les compétences particulières qui pourraient être dévolues à la Cour Permanente de Justice Internationale, ainsi que toutes autres conditions arrêtées entre Elles.

Le compromis sera établi par échange de notes entre les Gouvernements des Parties contractantes.

Il sera interprété en tous points par la Cour de Justice.

Si le compromis n'est pas arrêté dans les trois mois à compter du jour où l'une des Parties a été saisie d'une demande aux fins de règlement judiciaire, chaque Partie pourra saisir la Cour de Justice par voie de simple requête.

posals contained in its report. This time-limit shall not exceed three months.

ART. 19. While proceedings are actually in progress, each of the commissioners shall receive an allowance, the amount of which shall be fixed by agreement between the Parties, each of whom shall defray an equal share.

The general expenses caused by the proceedings of the Commission shall be divided in the same manner.

ART. 20. Should one of the Parties not accept the proposals of the Conciliation Commission, or fail to arrive at a decision within the period laid down in its report, either Party may request that the dispute be referred to the Permanent Court of International Justice.

Should the Permanent Court be of opinion that the dispute is not of a legal character, the Parties agree that it shall be decided *ex aequo et bono*.

ART. 21. In each separate case the Contracting Parties shall conclude a special *compromis* clearly specifying the subject of the dispute, the particular powers that may be conferred upon the Permanent Court of International Justice, and any other conditions on which they may jointly decide.

The *compromis* shall be established by an exchange of notes between the Governments of the Contracting Parties. It shall be interpreted in every point by the Permanent Court.

If the *compromis* is not concluded within three months from the day on which one of the Parties received a request for judicial settlement, either Party may bring the matter before the Permanent Court of International Justice by simple application.

ART. 22. Si la Cour Permanente de Justice Internationale établissait qu'une décision d'une instance judiciaire ou de toute autre autorité relevant de l'une des Parties contractantes se trouve entièrement ou partiellement en opposition avec le droit des gens et si le droit constitutionnel de cette Partie ne permettait pas ou ne permettait qu'imparfaitement d'effacer par voie administrative les conséquences de la décision dont il s'agit, il serait accordé à la Partie lésée une satisfaction équitable d'un autre ordre.

ART. 23. L'arrêt rendu par la Cour Permanente de Justice Internationale sera exécuté de bonne foi par les Parties.

Les difficultés auxquelles son interprétation pourrait donner lieu seront tranchées par la Cour de Justice, que chacune des Parties pourra saisir à cette fin par voie de simple requête.

ART. 24. Durant le cours de la procédure de conciliation ou de la procédure judiciaire, les Parties contractantes s'abstiendront de toute mesure pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission de conciliation ou sur l'exécution de l'arrêt de la Cour Permanente de Justice Internationale.

ART. 25. Si une procédure de conciliation ou une procédure judiciaire est pendante lors de l'expiration du présent traité, elle suivra son cours conformément aux dispositions du présent traité ou de toute autre convention que les Parties contractantes seraient venues de lui substituer.

ART. 26. Le présent traité, dont l'interprétation ou l'application ne pourront porter aucune atteinte

ART. 22. Should the Permanent Court of International Justice determine that a decision of a judicial or any other authority under one of the Contracting Parties is wholly or in part contrary to international law, and should the constitutional law of that Party not permit, or only partly permit, the consequences of such decision to be annulled by administrative action, the injured Party shall be afforded equitable satisfaction in some other form.

ART. 23. The judgment delivered by the Permanent Court of International Justice shall be executed in good faith by the Parties.

Any difficulties that may arise in connection with its execution shall be settled by the Permanent Court, before which they may be brought by a simple application on the part of either Party.

ART. 24. During the conciliation proceedings or judicial proceedings, the Contracting Parties shall abstain from all measures which might have a prejudicial effect on the acceptance of the proposals of the Conciliation Commission or the execution of the judgment of the Permanent Court of International Justice.

ART. 25. Should any conciliation proceedings or judicial proceedings be pending at the time of the expiration of this treaty, they shall take their course in accordance with the provisions of this treaty or of any other convention which the Contracting Parties may have agreed to substitute therefor.

ART. 26. The present treaty, the interpretation or application of which shall in no case prejudice

aux droits et obligations des Hautes Parties contractantes en vertu du Pacte de la Société des Nations, sera communiqué pour l'enregistrement à la Société des Nations conformément à l'art. 18 du Pacte.

ART. 27. Les contestations qui pourraient surgir, soit dans l'interprétation, soit dans l'exécution du présent traité, seront soumises directement par une simple demande à la Cour Permanente de Justice Internationale de la Haye.

ART. 28. Ce traité sera ratifié dans le plus bref délai possible et entrera en vigueur immédiatement après l'échange des ratifications qui aura lieu à Rome. Il aura une durée de cinq ans à partir de la date de l'échange des instruments de ratification. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il restera en vigueur pour une période de cinq ans encore.

En foi de quoi les Plénipotentiaires susnommés ont signé le présent traité et l'ont muni de leurs sceaux.

Fait à Rome, en double exemplaire, le vingt-trois septembre mil neuf cent vingt-huit.

B. Mussolini  
E. K. Vénizélos

the rights and obligations of the High Contracting Parties under the Covenant of the League of Nations, shall be communicated to the League of Nations for registration as provided in Article 18 of the Covenant.

ART. 27. Any disputes that may arise as to the interpretation or execution of the present treaty shall be submitted directly, by a simple application, to the Permanent Court of International Justice at the Hague.

ART. 28. This treaty shall be ratified as soon as possible, and shall come into force immediately upon the exchange of ratifications, which shall take place at Rome. It shall remain operative for five years from the date of the exchange of the instruments of ratification. Unless it is denounced six months before the expiration of this term, it shall remain in force for a further period of five years.

In witness whereof the above-named Plenipotentiaries have signed the present treaty and have sealed it with their seals.

Done at Rome, in duplicate, this twenty-third day of September, one thousand nine hundred and twenty-eight.

B. Mussolini  
E. K. Venizelos

#### PERMANENT COMMISSION OF CONCILIATION

No information available.

## No. 124

PORTUGAL-SWITZERLAND: TREATY OF CONCILI-  
ATION, ARBITRATION, AND COMPULSORY  
ADJUDICATION

Signed at Berne October 17, 1928; ratifications exchanged November 9, 1929.

Original text from Switzerland, *Messager du Conseil fédéral*, December 17, 1928, No. 2408.

(Translation)

Le Conseil Fédéral Suisse et le Président de la République Portugaise,

animés du désir de resserrer les liens de traditionnelle amitié qui unissent la Suisse et le Portugal et de résoudre par voie de conciliation, de règlement judiciaire ou d'arbitrage les différends qui viendraient à s'élever entre les deux pays,

ont résolu de conclure à cet effet un traité et ont nommé leurs plénipotentiaires, savoir:

Le Conseil fédéral suisse:

Monsieur Giuseppe Motta, conseiller fédéral, chef du département politique fédéral,

Le président de la république Portugaise:

Son Excellence Monsieur Alberto d'Oliveira, envoyé extraordinaire et ministre plénipotentiaire de Portugal en Suisse,

lesquels, après s'être communiqué leurs pleins pouvoirs reconnus en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Tous les litiges ayant pour objet un droit, de quelque nature qu'il soit, allégué par une des parties contractantes et contesté par l'autre et, notamment, les différends mentionnés à l'article 13 du pacte de la Société des Nations, qui n'auraient pu être réglés dans un délai rai-

The Swiss Federal Council and The President of the Portuguese Republic,

Being desirous of strengthening the bonds of traditional friendship that unite Switzerland and Portugal and of settling by conciliation, judicial settlement, or arbitration any disputes that may arise between the two countries,

Have resolved to conclude a treaty for that purpose and have appointed as their plenipotentiaries, that is to say:

The Swiss Federal Council:

Monsieur Giuseppe Motta, Federal Councillor, Head of the Federal Political Department;

The President of the Portuguese Republic:

His Excellency Monsieur Alberto d'Oliveira, Envoy Extraordinary and Minister Plenipotentiary of Portugal in Switzerland;

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1. All disputes relating to a right of whatever nature which is asserted by one of the Contracting Parties and contested by the other, and in particular the disputes mentioned in Article 13 of the Covenant of the League of Nations, which cannot be settled within a reasonable time by the

sonnable, par les procédures diplomatiques ordinaires, seront soumis pour jugement à la cour permanente de justice internationale

ART 2 Les parties contractantes établiront, dans chaque cas particulier, un compromis spécial déterminant nettement l'objet du différend, les compétences particulières qui pourraient être dévolues à la cour permanente de justice internationale, ainsi que toutes autres conditions arrêtées entre elles

Le compromis sera établi par échange de notes entre les gouvernements des parties contractantes. Il sera interprété en tous points par la cour de justice.

Si le compromis n'est pas arrêté dans les trois mois à compter du jour où l'une des parties aura été saisie d'une demande aux fins de règlement judiciaire, chaque partie pourra saisir la cour de justice par voie de simple requête.

ART 3 Avant toute procédure devant la cour permanente de justice internationale le différend devra à la demande de l'une ou l'autre des parties être soumis à fin de conciliation à une commission internationale permanente dite commission permanente de conciliation constituée conformément au présent traité.

ART 4 La commission permanente de conciliation sera composée de cinq membres. Les parties contractantes nommeront, chacune, un commissaire à leur gré et désigneront d'un commun accord, les trois autres et parmi ces derniers, le président de la commission. Ces trois commissaires ne devront, ni être ressortissants des parties contractantes, ni avoir leur domicile sur leur territoire ou se trouver à leur service. Ils devront

ordinary diplomatic methods, shall be referred for judgment to the Permanent Court of International Justice.

ART 2 In each separate case the Contracting Parties shall draw up a special *compromis* clearly defining the subject of the dispute, the particular powers that may be conferred on the Permanent Court of International Justice, and any other conditions upon which they may decide.

The *compromis* shall be concluded by an exchange of notes between the Governments of the Contracting Parties. It shall be interpreted as regards all points by the Court of Justice.

If the *compromis* is not concluded within three months from the day on which one of the Parties receives a request for judicial settlement, either Party may lay the dispute before the Court of Justice by a simple application.

ART 3 Before any proceedings take place before the Permanent Court of International Justice, the dispute must if either Party so requests be submitted with a view to conciliation to a permanent international commission, styled the Permanent Conciliation Commission, formed as provided in the present treaty.

ART 4 The Permanent Conciliation Commission shall be composed of five members. The Contracting Parties shall each nominate a commissioner of its own choosing, and shall appoint the other three commissioners by joint agreement these latter to include the President of the Commission. These three commissioners may not be nationals of the Contracting Parties, nor be domiciled in their territory, nor be employed in their

être tous trois de nationalité différente

Les commissaires seront nommés pour trois ans. Si, à l'expiration du mandat d'un membre de la commission, il n'est pas pourvu à son remplacement, son mandat est censé renouvelé pour une période de trois ans, les parties se réservent toutefois de transférer, à l'expiration du terme de trois ans, les fonctions de président à un autre des membres de la commission désignés en commun.

Une membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part à l'examen du différend jusqu'à ce que la procédure soit terminée, nonobstant le fait que son remplaçant aurait été désigné.

En cas de décès ou de retraite de l'un des membres de la commission de conciliation, il devra être pourvu à son remplacement pour le reste de la durée de son mandat, si possible dans les trois mois qui suivront et, en tout cas, aussitôt qu'un différend aura été soumis à la commission.

Au cas où l'un des membres de la commission de conciliation, désignés en commun par les parties contractantes, serait momentanément empêché de prendre part aux travaux de la commission par suite de maladie ou de toute autre circonstance, les parties s'entendront pour désigner un suppléant, qui siégera temporairement à sa place. Si la désignation de ce suppléant n'intervient pas dans un délai de trois mois, à compter de la vacance temporaire du siège, il sera procédé conformément à l'article 5 du présent traité.

ART 5 La commission de conciliation sera constituée dans les

service. All three must be of different nationalities.

The commissioners shall be appointed for three years. If, on the expiration of the term of office of a member of the Commission, no arrangements are made to replace him, his term shall be deemed to be renewed for a period of three years, the Parties reserve to themselves the right, however, to transfer the office of president, on the expiration of the term of three years, to another of the jointly appointed members of the Commission.

A member whose term of office expires while any proceedings are pending shall continue to take part in the examination of the dispute until the proceedings come to an end, even though his successor may have been appointed.

In the event of the death or resignation of one of the members of the Conciliation Commission, arrangements shall be made to replace him for the remainder of his term of office, if possible within the three months following, and in any case as soon as a dispute is submitted to the Commission.

Should one of the members of the Conciliation Commission appointed jointly by the Contracting Parties be temporarily unable to take part in the Commission's proceedings on account of illness or for any other reason, the Parties shall agree upon the appointment of a substitute, who shall sit temporarily in his place. If this substitute is not appointed within three months from the date on which the temporary vacancy occurred, action shall be taken as provided in Article 5 of the present treaty.

ART 5 The Conciliation Commission shall be set up within six

six mois qui suivront l'entrée en vigueur du présent traité

Si la nomination des membres à désigner en commun n'intervenait pas dans ledit délai ou, en cas de remplacement, dans les trois mois à compter de la vacance du siège, elle sera confiée à une puissance tierce, désignée de commun accord par les parties. Si l'accord ne s'établit pas à ce sujet, chaque partie désignera une puissance différente et les nominations seront faites de concert par les puissances ainsi désignées. Si dans un délai de deux mois, ces deux puissances n'ont pu tomber d'accord, chacune d'elles présentera des candidats en nombre égal aux membres à désigner, le sort déterminera lesquels des candidats ainsi présentés seront admis.

ART 6 La commission de conciliation sera saisie, par voie de requête adressée au président, par les deux parties agissant d'un commun accord ou, à défaut, par l'une ou l'autre des parties.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la commission de procéder à toutes mesures propres à conduire à une conciliation.

Si la requête émane d'une seule des parties, elle sera notifiée par celle-ci sans délai à l'autre partie.

ART 7 Dans un délai de quinze jours à partir de la date où l'une des parties contractantes aura porté un différend devant la commission de conciliation, chacune des parties pourra, pour l'examen de ce différend, remplacer le membre permanent désigné par elle par une personne possédant une compétence spéciale dans la matière. La partie qui voudrait user de ce droit en avisera immédiatement l'autre par

months after the present treaty comes into force.

If the appointment of the members to be nominated jointly is not made within that period or, in the case of a replacement, within three months from the occurrence of the vacancy, a third Power, selected by the Parties jointly, shall be asked to make it. If no agreement is reached on this point, each of the Parties shall nominate a different Power, and the appointments shall be made jointly by the Powers so nominated. If these two Powers are unable to reach an agreement within two months, each of them shall put forward a number of candidates equal to the number of members to be appointed, and the selection shall be made from these candidates by lot.

ART 6 A dispute shall be laid before the Conciliation Commission by a request addressed to the President by the two Parties acting in concert, or, in the absence of such agreement, by either Party.

The request shall contain a brief statement of the subject of the dispute followed by an invitation to the Commission to take all steps calculated to lead to an amicable settlement.

If the request is made by only one of the Parties, that Party shall at once notify the other Party thereof.

ART 7 Within the fortnight following the date on which one of the Contracting Parties has laid a dispute before the Conciliation Commission, either of the Parties may for the examination of that dispute, replace the permanent member appointed by it by a person possessing special qualifications in the matter. The Party desiring to avail itself of this right shall immediately notify the other Party,



tie; celle-ci aura la faculté d'user du même droit dans un délai de quinze jours, à partir de la date où l'avis lui sera parvenu.

Chaque partie se réserve de nommer immédiatement un suppléant pour remplacer temporairement le membre permanent désigné par elle qui, par suite de maladie ou de toute autre circonstance, se trouverait momentanément empêché de prendre part aux travaux de la commission.

ART. 8. La commission de conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les parties. Elle pourra, après examen de l'affaire, exposer aux parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

A la fin de ses travaux, la commission dressera un procès-verbal constatant, suivant le cas, soit que les parties se sont arrangées et, s'il y a lieu, les conditions de l'arrangement, soit que les parties n'ont pu être conciliées.

Les travaux de la commission devront, à moins que les parties n'en conviennent différemment, être terminés dans le délai de six mois à compter du jour où la commission aura été saisie du litige.

Si les parties n'ont pas été conciliées, la commission pourra, à moins que l'un ou l'autre des deux commissaires librement nommés par les parties ne s'y oppose, ordonner, avant même que la cour permanente de justice internationale, saisie du différend, ait statué définitivement, la publication d'un rapport où sera consigné l'avis de

the latter shall be entitled to avail itself of the same right within a fortnight after receiving the notification.

Each Party reserves the right to appoint immediately a substitute to replace temporarily the permanent member appointed by that Party should he be unable for a time, on account of illness or for any other reason, to take part in the work of the Commission.

ART. 8. The task of the Conciliation Commission shall be to elucidate the questions in dispute, to collect with that object all useful information by inquiry or otherwise, and to endeavor to bring the Parties to an amicable settlement. It may, after examining the case, inform the Parties of the terms of settlement which seem to it suitable, and lay down a period within which they are to reach their decision.

At the close of its proceedings the Commission shall draw up a report stating, as the case may be, either that the Parties have come to an agreement and, if need be, the terms of the agreement, or that it has proved impossible to effect a settlement.

The proceedings of the Commission must, unless the Parties otherwise agree, be concluded within six months from the day on which the dispute was laid before the Commission.

If it has proved impossible to effect a settlement between the Parties, the Commission may, unless either of the two commissioners freely appointed by the Parties objects, order the publication of a report embodying the opinion of each member of the Commission, even before the Permanent Court

chacun des membres de la commission.

ART. 9. A moins de stipulation spéciale contraire, la commission de conciliation réglera elle-même sa procédure qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du titre III (commissions internationales d'enquête) de la convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 10. La commission de conciliation se réunira, sauf accord contraire entre les parties, au lieu désigné par son président.

ART. 11. Les travaux de la commission de conciliation ne sont publics qu'en vertu d'une décision prise par la commission avec l'assentiment des parties.

ART. 12. Les parties contractantes seront représentées auprès de la commission permanente de conciliation par des agents ayant mission de servir d'intermédiaires entre elles et la commission; elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander que toutes personnes dont le témoignage leur paraîtrait utile soient entendues par la commission.

La commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux parties ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaître avec l'assentiment de leur gouvernement.

ART. 13. Sauf disposition contraire du présent traité, les déci-

of International Justice, having had the dispute referred to it, has given its final decision.

ART. 9. Unless any special stipulation is made to the contrary, the Conciliation Commission shall settle its own procedure, which shall in all cases allow of both Parties being heard. So far as concerns investigations, the Commission shall, unless it unanimously decides otherwise, conform to the provisions of Part III (International Commissions of Inquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 10. Unless the Parties otherwise agree, the Conciliation Commission shall meet at the place selected by its President.

ART. 11. The proceedings of the Conciliation Commission shall not be public unless the Commission, with the consent of the Parties, so decides.

ART. 12. The Contracting Parties shall be represented before the Permanent Conciliation Commission by agents whose duty it shall be to act as intermediaries between them and the Commission. They may, in addition, obtain the assistance of counsel and experts appointed by them for that purpose, and they may request that any persons whose testimony may seem to them of value be heard by the Commission.

The Commission for its part shall be entitled to ask for oral explanations from the agents, counsel, and experts of the two Parties, and from any persons whom it may think useful to summon with the consent of their Governments.

ART. 13. Except as otherwise provided in the present treaty, the

sions de la commission de conciliation seront prises à la majorité des voix.

ART. 14. Les parties contractantes s'engagent à faciliter les travaux de la commission de conciliation et, en particulier, à lui fournir, dans la plus large mesure possible, tous documents et informations utiles, ainsi qu'à user des moyens dont elles disposent pour lui permettre de procéder sur leur territoire, et selon leur législation, à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

ART. 15. Pendant la durée des travaux de la commission de conciliation, chacun des commissaires recevra une indemnité dont le montant sera arrêté, d'un commun accord, entre les parties contractantes.

Chaque gouvernement supportera ses propres frais et une part égale des frais communs de la commission, les indemnités prévues à l'alinéa premier étant comprises parmi ces frais communs.

ART. 16. Tous les litiges, autres que ceux visés à l'article premier, qui viendraient à s'élever entre les parties contractantes et ne pourraient être résolus dans un délai raisonnable, par les procédés diplomatiques ordinaires, seront soumis à la commission permanente de conciliation. Il sera procédé dans ce cas conformément aux articles 6 à 15 du présent traité.

ART. 17. Si les parties ne peuvent être conciliées, le litige sera, à la requête d'une seule des parties, soumis pour décision à un tribunal arbitral qui, à défaut d'autre accord entre les parties, sera composé de cinq membres désignés, pour chaque cas particulier, suivant la méthode prévue aux articles 4

decisions of the Conciliation Commission shall be taken by a majority vote.

ART. 14. The Contracting Parties undertake to facilitate the labors of the Conciliation Commission, and in particular to supply it to the greatest possible extent with all relevant documents and information, and also to use the means at their disposal to allow it to summon and hear witnesses or experts in their territory and in accordance with their laws, and to visit the localities in question.

ART. 15. During the proceedings of the Conciliation Commission, each of the commissioners shall receive an allowance, the amount of which shall be fixed by agreement between the Contracting Parties.

Each Government shall defray its own expenses and half the joint expenses of the Commission, the allowances provided for in the first paragraph being included in these joint expenses.

ART. 16. All disputes, other than those covered by Article 1, that may arise between the Contracting Parties and that cannot be settled within a reasonable period by the ordinary diplomatic methods, shall be referred to the Permanent Conciliation Commission. In this case Articles 6 to 15 of the present treaty shall be observed.

ART. 17. If the Parties cannot be brought to accept a settlement, the case shall, at the request of either one of them, be submitted for decision to an arbitral tribunal, which, unless the Parties otherwise agree, shall consist of five members appointed, for each particular case, by the method provided for the

et 5 du présent traité, en ce qui concerne la commission de conciliation.

Les parties se réservent, toutefois, la faculté de soumettre le litige, d'un commun accord, à la cour permanente de justice internationale, laquelle statuera *ex aequo et bono*.

ART. 18. Lorsqu'il y aura lieu à arbitrage entre elles, les parties contractantes s'engagent à conclure, dans un délai de trois mois à compter du jour où l'une des parties aura adressé à l'autre la demand d'arbitrage, un compromis spécial concernant l'objet du litige, ainsi que les modalités de la procédure.

Si ce compromis ne peut être conclu dans le délai ci-dessus prévu, il y sera obligatoirement suppléé conformément à la procédure indiquée au titre IV de la convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

Dans le cas où le litige serait soumis à la cour permanente de justice internationale, il sera procédé conformément aux dispositions du statut de cette cour.

ART. 19. S'il s'agit d'un différend qui, à teneur de la législation interne de l'une des parties, relève de la compétence des tribunaux, y compris les tribunaux administratifs, la partie défenderesse pourra s'opposer à ce qu'il soit soumis à la procédure de conciliation, à la procédure de règlement judiciaire ou à la procédure d'arbitrage prévues par le présent traité, avant qu'un jugement définitif ait été rendu, dans un délai raisonnable, par l'autorité judiciaire compétente.

Conciliation Commission in Articles 4 and 5 of the present treaty.

Nevertheless the Parties reserve the right to submit the case by agreement to the Permanent Court of International Justice, which shall give judgment *ex aequo et bono*.

ART. 18. When there is occasion for arbitration between them, the Contracting Parties undertake to conclude, within three months from the day on which one of them shall have made to the other a request for arbitration, a special *compromis* concerning the subject of the dispute and the details of the procedure.

If this *compromis* cannot be concluded within the period laid down above, it shall be supplied compulsorily in accordance with the procedure indicated in Part IV of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

Should the case be referred to the Permanent Court of International Justice, the procedure shall be that laid down in the Statute of the Court.

ART. 19. If the dispute is one which, according to the municipal law of one of the Parties, comes within the jurisdiction of the courts, including the administrative courts, the defendant Party may oppose the submission of the dispute to the procedure of conciliation, to the procedure of judicial settlement, or to the procedure of arbitration, provided for in the present treaty, until a judgment with final effect has been pronounced, within a reasonable time, by the competent judicial authority.

ART. 20. Si la cour permanente de justice internationale ou le tribunal arbitral établissait qu'une décision d'une instance judiciaire ou de toute autre autorité relevant de l'une des parties contractantes se trouve entièrement ou partiellement en opposition avec le droit des gens et si le droit constitutionnel de cette partie ne permettait pas ou ne permettait qu'imparfaitement d'effacer par voie administrative les conséquences de la décision dont il s'agit, la sentence judiciaire ou arbitrale déterminerait la nature et l'étendue de la réparation à accorder à la partie lésée.

ART. 21. Durant la procédure de conciliation, la procédure judiciaire ou la procédure arbitrale, les parties contractantes s'abstiendront de toute mesure pouvant avoir une répercussion sur l'acceptation des propositions de la commission de conciliation ou sur l'exécution de l'arrêt de la cour permanente de justice internationale ou de la sentence du tribunal arbitral. A cet effet, la commission de conciliation, la cour de justice et le tribunal arbitral ordonneront, le cas échéant, quelles mesures provisionnelles doivent être prises.

ART. 22. Les contestations qui surgiraient au sujet de l'interprétation ou de l'exécution du présent traité seront, sauf accord contraire, soumises directement à la cour permanente de justice internationale par voie de simple requête.

ART. 23. Le présent traité ne s'appliquera qu'aux litiges qui viendraient à s'élever, après l'échange des ratifications du présent traité, au sujet de situations ou de faits postérieurs à cette date.

ART. 20. Should the Permanent Court of International Justice or the arbitral tribunal determine that a decision of a court of law or of any other authority of one of the Contracting Parties is wholly or in part contrary to international law, and if the constitutional law of that Party does not permit, or only partly permits, the consequences of the decision in question to be annulled by administrative measures, the judicial or arbitral decision shall determine the nature and extent of the reparation to be made to the injured Party.

ART. 21. During the conciliation proceedings, the judicial proceedings, or the arbitration proceedings, the Contracting Parties shall abstain from all measures which might affect the acceptance of the proposals of the Conciliation Commission or the execution of the judgment of the Permanent Court of International Justice or of the award of the arbitral tribunal. To this purpose, the Conciliation Commission, the Court of Justice, or the arbitral tribunal shall, if necessary, order what provisional measures are to be taken.

ARTICLE 22. In the absence of any agreement to the contrary, disputes as to the interpretation or execution of the present treaty shall be laid directly before the Permanent Court of International Justice by a simple application.

ART. 23. The present treaty shall apply only to cases that may arise after the ratifications of the present treaty have been exchanged, with reference to situations or events occurring subsequently to that date.

Les litiges pour la solution desquels une procédure spéciale est prévue par d'autres accords en vigueur entre les parties contractantes seront réglés conformément aux stipulations de ces accords.

ART. 24. Le présent traité sera ratifié. Les instruments de ratification en seront échangés, à Berne, dans le plus bref délai possible.

Le présent traité entrera en vigueur dès l'échange des ratifications et aura une durée de cinq ans à partir de son entrée en vigueur. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il sera considéré comme renouvelé pour une période de cinq années, et ainsi de suite.

Si, lors de l'expiration du présent traité, une procédure de conciliation, de règlement judiciaire ou d'arbitrage se trouve pendante, elle suivra son cours jusqu'à son achèvement, conformément aux stipulations du présent traité.

En foi de quoi les plénipotentiaires susnommés ont signé le présent traité.

Fait à Berne, en double exemplaire, le dix-sept octobre mil neuf cent vingt-huit.

Motta  
d'Oliveira

Disputes for the settlement of which a special procedure is laid down by other agreements in force between the Contracting Parties shall be settled in accordance with the provisions of those agreements.

ART. 24. The present treaty shall be ratified, and the instruments of ratification shall be exchanged at Berne as soon as possible.

The present treaty shall come into force upon the exchange of ratifications, and shall remain valid for five years from its entry into force. Unless it is denounced six months before the expiration of that period, it shall be deemed to be renewed for a term of five years, and similarly thereafter.

If, when the present treaty expires, conciliation, judicial settlement, or arbitration proceedings are pending, they shall take their course until they are concluded, in accordance with the provisions of the present treaty.

In witness whereof the above-named Plenipotentiaries have signed the present treaty.

Done at Berne in duplicate, October 17, one thousand nine hundred and twenty-eight.

Motta  
d'Oliveira

# EXCHANGE OF NOTES

Legação de Portugal na Suíça.

Berne, le 17 octobre 1928.

Monsieur le Conseiller fédéral,

J'ai l'honneur de confirmer à Votre Excellence qu'il est bien entendu que l'article 23, alinéa premier, du traité de conciliation, de règlement judiciaire et d'arbitrage conclu entre les deux pays à la date de ce jour ne limite en aucune

Portuguese Legation  
in Switzerland.

Berne, October 17, 1928.

Sir,

I have the honor to assure your Excellency that it is definitely understood that Article 23, paragraph 1, of the treaty of conciliation, judicial settlement, and arbitration concluded between the two countries this day does not in any way limit

manière les engagements assumés par le Portugal et la Suisse du chef de leur participation à la clause facultative de l'article 36 du statut de la cour permanente de justice internationale.

Les différends d'ordre juridique prévus par cet article 36 et issus de situations ou de faits antérieurs à l'entrée en vigueur du traité signé aujourd'hui demeurent, dès lors, soumis, sans aucune réserve, à la clause facultative du statut de la cour permanente de justice internationale.

Je saisis cette occasion pour renouveler à Votre Excellence l'assurance de ma très haute considération.

A. d'Oliveira

Son Excellence Monsieur le Conseiller fédéral Giuseppe Motta,  
chef du département politique  
fédéral,  
Berne.

Berne, le 17 octobre 1928.

Monsieur le Ministre,

Nous avons l'honneur d'accuser réception de la note, en date du 17 de ce mois, par laquelle Votre Excellence a eu l'obligeance de nous confirmer qu'il est bien entendu que l'article 23, alinéa premier, du traité de conciliation, de règlement judiciaire et d'arbitrage conclu le même jour entre les deux pays ne limite en aucune manière les engagements assumés par la Suisse et le Portugal du chef de leur participation à la clause facultative de l'article 36 du statut de la cour permanente de justice internationale. Vous avez bien voulu ajouter que les différends d'ordre juridique prévus par cet article 36 et issus de situations ou de faits antérieurs à l'entrée en vigueur du traité signé aujourd'hui demeurent, dès lors, soumis, sans aucune

the engagements entered into by Portugal and Switzerland through their acceptance of the optional clause of Article 36 of the Statute of the Permanent Court of International Justice.

Legal disputes of the nature contemplated by the said Article 36, arising out of situations or events occurring prior to the entry into force of the treaty signed this day, will thenceforth remain unreservedly subject to the optional clause of the Statute of the Permanent Court of International Justice.

I take this occasion, etc.

A. d'Oliveira

His Excellency Monsieur  
Giuseppe Motta,  
Federal Councillor,  
Chief of the Federal Political  
Department,  
Berne.

Berne, October 17, 1928.

Sir,

We have the honor to acknowledge the receipt of your note dated the 17th instant, in which Your Excellency was good enough to assure us that it is definitely understood that Article 23, paragraph 1, of the treaty of conciliation, judicial settlement, and arbitration concluded between the two countries this day does not in any way limit the engagements entered into by Switzerland and Portugal through their acceptance of the optional clause of Article 36 of the Statute of the Permanent Court of International Justice. You were good enough to add that legal disputes of the nature contemplated by the said Article 36, arising out of situations or events occurring prior to the entry into force of the treaty signed this day

réserve à la clause facultative du statut de la cour permanente de justice internationale.

Nous avons pris acte de cette communication et saisissons cette occasion de vous renouveler, Monsieur le Ministre, l'assurance de notre haute considération.

Motta

Son Excellence Monsieur Alberto d'Oliveira,  
ministre de Portugal,  
Berne.

will thenceforth remain unreservedly subject to the optional clause of the Statute of the Permanent Court of International Justice.

We have duly noted this communication, and take this occasion, etc.

Motta

His Excellency Monsieur Alberto d'Oliveira,  
Portuguese Minister,  
Berne.

PERMANENT COMMISSION OF CONCILIATION

No information available.

## No. 125

### ALBANIA--THE UNITED STATES OF AMERICA: TREATY OF INVESTIGATION

Signed at Washington October 22, 1928; ratifications exchanged February 12, 1929.

Original text <sup>1</sup> from United States of America, *Treaty Series*, No. 771.

The President of the United States of America and His Majesty the King of the Albanians, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their Plenipotentiaries:

The President of the United States of America:

Mr. Frank B. Kellogg, Secretary of State of the United States of America; and

His Majesty the King of the Albanians:

Mr. Faik Konitza, Envoy Extraordinary and Minister Plenipotentiary of Albania in the United States of America;

Who, after having communicated to each other their respective full powers, found to be in proper form, have agreed upon and concluded the following articles:

ARTICLE I. Any disputes arising between the Government of the United States of America and the Government of Albania, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the High Contracting Parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report to a permanent International Commission constituted in the manner prescribed in the next succeeding Article; and they agree not to declare war or begin hostilities during such investigation and before the report is submitted.

<sup>1</sup> The Albanian text is also authentic.



ART. II. The International Commission shall be composed of five members to be appointed as follows: One member shall be chosen from each country, by the Government thereof; one member shall be chosen by each Government from some third country; the fifth member shall be chosen by common agreement between the two Governments, it being understood that he shall not be a citizen of either country. The expenses of the Commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.

ART. III. In case the High Contracting Parties shall have failed to adjust a dispute by diplomatic methods, and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, spontaneously by unanimous agreement offer its services to that effect, and in such case it shall notify both Governments and request their cooperation in the investigation.

The High Contracting Parties agree to furnish the Permanent International Commission with all the means and facilities required for its investigation and report.

The report of the Commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the High Contracting Parties shall limit or extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each Government, and the third retained by the Commission for its files.

The High Contracting Parties reserve the right to act independently on the subject matter of the dispute after the report of the Commission shall have been submitted.

ART. IV. The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof, and by Albania in accordance with its constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the English and Albanian languages, the English text to have authority in case of conflict between the two texts, and hereunto affixed their seals.

Done at Washington the twenty-second day of October, in the year one thousand nine hundred and twenty-eight.

Frank B. Kellogg  
Faik Konitza

PERMANENT COMMISSION OF INVESTIGATION

No information available.

## No. 126

ALBANIA-THE UNITED STATES OF AMERICA:  
TREATY OF ARBITRATION

Signed at Washington October 22, 1928; ratifications exchanged February 12, 1929.

Original text <sup>1</sup> from United States of America, *Treaty Series*, No. 770.

The President of the United States of America and His Majesty the King of the Albanians

Determined to prevent so far as in their power lies any interruption in the peaceful relations that have always existed between the two nations;

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them; and

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the Powers of the world;

Have decided to conclude a treaty of arbitration and for that purpose they have appointed as their respective Plenipotentiaries

The President of the United States of America:

Mr. Frank B. Kellogg, Secretary of State of the United States of America, and

His Majesty the King of the Albanians:

Mr. Faik Konitza, Envoy Extraordinary and Minister Plenipotentiary of Albania in the United States of America:

Who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I. All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to an appropriate commission of conciliation, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

The special agreement in each case shall be made on the part of the United States of America by the President of the United States of Amer-

<sup>1</sup> The Albanian text is also authentic.

ica by and with the advice and consent of the Senate thereof, and on the part of Albania in accordance with its constitutional laws.

ART. II. The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(a) is within the domestic jurisdiction of either of the High Contracting Parties,

(b) involves the interests of third Parties,

(c) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine,

(d) depends upon or involves the observance of the obligations of Albania in accordance with the Covenant of the League of Nations.

ART. III. The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by Albania in accordance with its constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the English and Albanian languages, the English text to have authority in case of conflict between the two texts, and hereunto affixed their seals.

Done at Washington the twenty-second day of October in the year one thousand nine hundred and twenty-eight.

Frank B. Kellogg  
Faik Konitza

## No. 127

### BELGIUM-POLAND: TREATY OF CONCILIATION AND ARBITRATION

Signed at Brussels October 25, 1928; ratifications not yet exchanged.

Original text communicated by the Polish Delegation to the League of Nations.

(Translation)

Son Excellence le Président de la République de Pologne et Sa Majesté le Roi des Belges,

animés du désir de resserrer les liens d'amitié qui existent entre la Pologne et la Belgique, et de résoudre, conformément aux principes dont s'inspire la Société des Nations, les différends qui viendraient à s'élever entre les deux Pays, ont

His Excellency the President of the Republic of Poland and His Majesty the King of the Belgians,

Desirous of strengthening the ties of friendship that exist between Poland and Belgium, and of settling according to the principles of the League of Nations such disputes as may arise between the two countries, have resolved to con-

résolu de conclure à cet effet un Traité et ont désigné leurs plénipotentiaires, savoir:

Son Excellence le Président de la République de Pologne:

Son Excellence Mr. T. Filipowicz, Envoyé Extraordinaire et Ministre Plénipotentiaire de Pologne près Sa Majesté le Roi des Belges, et

Mr. Makowski, Chef de Section au Ministère des Affaires Étrangères de Pologne,

Sa Majesté le Roi des Belges:

Mr. Hymans, Ministre d'État, Son Ministre des Affaires Étrangères,

Lesquels, après s'être fait connaître leurs pleins pouvoirs respectifs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

clude a Treaty for that purpose, and have appointed their Plenipotentiaries, that is to say:

His Excellency the President of the Republic of Poland:

His Excellency Monsieur T. Filipowicz, Envoy Extraordinary and Minister Plenipotentiary of Poland to His Majesty the King of the Belgians, and

Monsieur Makowski, Chief of Section in the Polish Ministry of Foreign Affairs;

His Majesty the King of the Belgians:

Monsieur Hymans, Minister of State, His Minister of Foreign Affairs;

Who, having communicated to each other their full powers, found in good and due form, have agreed upon the following provisions:

## CHAPITRE I

ARTICLE 1<sup>er</sup>. (1) Tous les litiges ayant pour objet un droit, de quelque nature qu'il soit, allégué par une des Parties Contractantes et contesté par l'autre, et, notamment, les différends:

(a) relatifs à l'interprétation d'un traité en vigueur entre les deux Parties,

(b) relatifs à tout point de droit des gens, qui n'auraient pu être réglés, dans un délai raisonnable, par la procédure diplomatique ordinaire, seront soumis à la Cour permanente de Justice internationale, ou, si l'une des Parties le demande, à la Cour permanente d'Arbitrage de La Haye.

(2) Cet engagement ne s'applique qu'aux contestations qui s'élèveraient après la ratification du présent Traité, au sujet de situations ou de faits postérieurs à cette ratification.

(3) Les contestations pour la solution desquelles une procédure

## CHAPTER I

ARTICLE 1. (1) All disputes relating to a right, of whatever nature it may be, asserted by one of the Contracting Parties and contested by the other, and, in particular, disputes:

(a) relating to the interpretation of a treaty in force between the two Parties,

(b) relating to any question of international law, which it has proved impossible to settle within a reasonable time by the ordinary diplomatic methods, shall be laid before the Permanent Court of International Justice, or, if one of the Parties so desires, before the Permanent Court of Arbitration at the Hague.

(2) This undertaking applies only to disputes arising after the ratification of the present Treaty in connection with situations or events subsequent thereto.

(3) Disputes for the settlement of which a special procedure is or may hereafter be laid down by

spéciale est ou sera prévue par d'autres conventions en vigueur entre la Belgique et la Pologne, seront réglées conformément aux dispositions de ces conventions.

ART. 2. (1) Les Parties Contractantes établiront, dans chaque cas particulier, un compromis spécial déterminant nettement l'objet du différend, les compétences particulières qui pourraient être dévolues à la Cour permanente de Justice internationale ou à la Cour permanente d'Arbitrage, ainsi que toutes autres conditions arrêtées entre Elles.

(2) Si le compromis n'est pas arrêté dans les trois mois à compter du jour où l'une des Parties aura été saisie d'une demande de règlement judiciaire ou d'arbitrage, ce compromis sera arrêté d'une façon définitive par une Commission spéciale formée dans ce but par les Parties de la manière suivante:

Chaque Partie nommera deux membres, dont un seulement pourra être son ressortissant. Ces membres en choisiront ensemble un cinquième, qui remplira les fonctions de Président.

Si pour une raison quelconque il n'a pas été procédé à une ou plusieurs de ces nominations, à l'expiration d'un délai de six mois à compter du jour où aura été formulée la demande de règlement judiciaire ou d'arbitrage, le Président de la Confédération Suisse sera prié de procéder aux désignations nécessaires.

ART. 3. Avant toute procédure devant la Cour permanente de Justice internationale, le différend pourra, à la demande de l'une des Parties, être soumis, à fin de conciliation à une Commission internationale permanente, dite Commission permanente de Con-

other conventions in force between Belgium and Poland shall be dealt with in accordance with the provisions of those conventions.

ART. 2. (1) In each separate case the Contracting Parties shall draw up a special *compromis* clearly determining the subject of the dispute, the particular powers that may be conferred upon the Permanent Court of International Justice or the Permanent Court of Arbitration, and any other conditions upon which they may jointly decide.

(2) If the *compromis* is not concluded within three months from the day on which one of the Parties received a request for judicial settlement or arbitration, it shall be definitively concluded by a special Commission set up by the Parties for that purpose in the following manner:

Each Party shall appoint two members, only one of whom may be one of its nationals. These members together shall choose a fifth member, who shall act as President.

If for any reason one or more of these appointments have not been made, at the end of a period of six months from the day on which the request for judicial settlement or arbitration was formulated, the President of the Swiss Confederation shall be asked to make the necessary selections.

ART. 3. Prior to any proceedings before the Permanent Court of International Justice, the dispute may, at the request of one of the Parties, be submitted, with a view to effecting a settlement, to a permanent international commission styled the Permanent Con-

ciliation, constituée conformément au présent Traité.

ART. 4. (1) Dans les six mois qui suivront l'échange des ratifications du présent Traité, les Parties Contractantes institueront la Commission permanente de Conciliation, qui sera composée de cinq membres.

(2) Les Parties nommeront chacune deux membres, dont l'un seulement pourra être choisi parmi ses propres nationaux. Le cinquième, qui remplira les fonctions de Président, sera nommé d'un commun accord par les Parties; il devra appartenir à une nationalité différente de celles des autres membres de la Commission et ne pourra ni avoir son domicile sur le territoire des Parties Contractantes, ni se trouver à leur service.

(3) Si la nomination du Président n'intervenait pas dans ledit délai de six mois, ou en cas de remplacement, dans les trois mois à compter de la vacance du siège, le Président de la Confédération Suisse sera, à défaut d'autre entente, prié de procéder à cette désignation.

(4) Les membres de la Commission seront nommés pour trois ans. Si, à l'expiration du mandat de l'un d'eux, il n'est pas pourvu à son remplacement, son mandat est censé renouvelé pour une période de trois ans.

(5) Un membre dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part à l'examen du différend jusqu'à ce que la procédure soit terminée, nonobstant le fait que son remplaçant aurait été désigné.

(6) En cas de décès ou de retraite de l'un des membres de la Commission de Conciliation, il

ciliation Commission, constituted in accordance with the present Treaty.

ART. 4. (1) Within six months from the exchange of the ratifications of the present Treaty, the Contracting Parties shall set up the Permanent Conciliation Commission, which shall be composed of five members.

(2) Each of the Parties shall nominate two members, only one of whom may be chosen from among its own nationals. The fifth member, who shall act as President, shall be appointed by common consent of the Parties; he must be of a different nationality from the other members of the Commission, and may not be domiciled in the territory of the Contracting Parties, nor be employed in their service.

(3) If the President is not appointed within the aforesaid period of six months, or, in the case of a vacancy, within three months from the occurrence of the vacancy, the President of the Swiss Confederation shall, unless it be otherwise agreed, be asked to make the appointment.

(4) The members of the Commission shall be appointed for three years. If, when the term of office of one of them expires, no provision is made for his replacement, his term shall be deemed to be renewed for a period of three years.

(5) A member whose term expires while any proceedings are in progress shall continue to take part in the examination of the dispute until the proceedings are concluded, even though his successor may have been appointed.

(6) In the event of the death or resignation of a member of the Conciliation Commission, arrange-

devra être pourvu à son remplacement pour le reste de la durée de son mandat, si possible dans les trois mois qui suivront et, en tous cas, aussitôt qu'un différend aura été soumis à la Commission.

(7) Au cas où le Président de la Commission de Conciliation serait momentanément empêché de prendre part aux travaux de la Commission par suite de maladie ou de toute autre circonstance, les Parties s'entendront pour désigner un suppléant, qui siègera temporairement à sa place. Si la désignation de ce suppléant n'intervient pas dans un délai de trois mois, il sera procédé conformément à l'alinéa 3 du présent article.

ART. 5. (1) La Commission de Conciliation sera saisie, par voie de requête adressée au Président, par les deux Parties agissant d'un commun accord, ou, à défaut, par l'une ou l'autre des Parties.

(2) La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation.

(3) Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci, sans délai, à l'autre Partie.

ART. 6. (1) Dans un délai de quinze jours à partir de la date où l'une des Parties Contractantes aura porté un différend devant la Commission de Conciliation, chacune des Parties pourra, pour l'examen de ce différend, remplacer un des membres désignés par elle par une personne possédant une compétence spéciale dans la matière. La Partie qui voudrait user de ce droit en avisera immédiatement l'autre Partie; celle-ci aura la

ments shall be made to replace him for the remainder of his term of office, if possible within the three months following, and in any case as soon as a dispute has been submitted to the Commission.

(7) Should the President of the Conciliation Commission be temporarily unable to take part in the work of the Commission owing to illness or any other circumstance, the Parties shall agree upon the choice of a deputy who shall sit for the time being in his stead. Should such deputy not have been selected within three months, action shall be taken as provided in paragraph 3 of this Article.

ART. 5. (1) A dispute shall be laid before the Conciliation Commission by a request addressed to the President by the two Parties acting in concert, or, in the absence of such agreement, by either Party.

(2) The request shall contain a brief statement of the subject of the dispute, followed by an invitation to the Commission to take all steps calculated to lead to an amicable settlement.

(3) If the request is made by only one of the Parties, that Party shall give notice thereof without delay to the other Party.

ART. 6. (1) Within the fortnight following the day on which one of the Contracting Parties has laid a dispute before the Conciliation Commission, either Party may, for the examination of that dispute, replace one of the members appointed by it by a person possessing special qualifications in the matter. The Party desiring to avail itself of this right shall at once notify the other Party; the latter shall be entitled to avail itself of the

faculté d'user du même droit dans un délai de quinze jours à partir de la date où l'avis lui sera parvenu.

(2) Chaque Partie se réserve de nommer immédiatement un suppléant pour remplacer temporairement le membre désigné par elle qui, par suite de maladie ou de toute autre circonstance, se trouverait momentanément empêché de prendre part aux travaux de la Commission.

ART. 7. (1) La Commission de Conciliation aura pour tâche d'éclaircir les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

(2) A la fin de ses travaux, la Commission dressera un procès-verbal constatant, suivant le cas, soit que les Parties se sont arrangées et, s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

(3) Les travaux de la Commission devront, à moins que les Parties n'en conviennent différemment, être terminés dans le délai de six mois à compter du jour où la Commission aura été saisie du litige.

(4) Si les Parties n'ont pas été conciliées, la Commission pourra, à moins que l'un des commissaires librement nommés par les Parties, ne s'y oppose, ordonner, avant même que la Cour permanente de Justice internationale ou la Cour permanente d'Arbitrage, saisie du différend, ait statué définitivement, la publication d'un rapport où sera

same right within a fortnight after receiving the notification.

(2) Each Party reserves the right to appoint a deputy at once to replace temporarily one of the members appointed by it, should he be unable for a time, owing to illness or any other circumstance, to take part in the work of the Commission.

ART. 7. (1) The task of the Conciliation Commission shall be to elucidate the questions in dispute, to collect with that object all useful information by inquiry or otherwise, and to endeavor to bring the Parties to an amicable settlement. It may, after examining the case, inform the Parties of the terms of settlement which seem to it suitable, and lay down a time-limit within which they are to reach their decision.

(2) At the close of its proceedings, the Commission shall draw up a report stating, as the case may be, either that the Parties have come to an agreement and, if necessary, the terms of the agreement, or that it has proved impossible to effect a settlement.

(3) Unless the Parties otherwise agree, the proceedings of the Commission must be concluded within six months from the day on which the dispute was laid before the Commission.

(4) If it has proved impossible to effect a settlement between the Parties, the Commission may, unless one of the Commissioners freely appointed by the Parties objects, order the publication of a report embodying the opinion of each member of the Commission, even before the Permanent Court of International Justice or the Per-



consigné l'avis de chacun des membres de la Commission.

ART. 8. A moins de stipulation spéciale contraire, la Commission de Conciliation réglera elle-même sa procédure, qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la Commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du Titre III (Commissions Internationales d'Enquête) de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 9. La Commission permanente de Conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son Président; ce lieu ne pourra être situé sur le territoire des Parties.

ART. 10. Les travaux de la Commission de Conciliation ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties.

ART. 11. (1) Les Parties seront représentées auprès de la Commission de Conciliation par des agents ayant mission de servir d'intermédiaire entre elles et la Commission; elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet [et] demander l'audition de toutes personnes dont le témoignage leur paraîtrait utile.

(2) La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts de deux Parties, ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaitre avec l'assentiment de leur Gouvernement.

manent Court of Arbitration, having had the dispute submitted to it, has pronounced its final decision.

ART. 8. Unless any special stipulation is made to the contrary, the Conciliation Commission shall decide upon its own procedure, which must in all cases allow of both Parties being heard. In regard to investigations, the Commission shall, unless it unanimously decides otherwise, adhere to the provisions of Part III (International Commissions of Inquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

ART. 9. Unless the Parties otherwise agree, the Permanent Conciliation Commission shall meet at the place selected by its President; such place may not be situated in the territory of either Party.

ART. 10. The proceedings of the Conciliation Commission shall not be public unless the Commission, with the consent of the Parties, so decides.

ART. 11. (1) The Parties shall be represented before the Conciliation Commission by agents whose duty it shall be to act as intermediaries between them and the Commission. They may, in addition, obtain the assistance of counsel and experts appointed by them for that purpose, and they may request that any persons whose testimony may seem to them of value be heard by the Commission.

(2) The Commission for its part shall be entitled to ask for oral explanations from the agents, counsel, and experts of the two Parties, and from any persons whom it may think useful to summon with the consent of their Governments.

ART. 12. (1) La Commission permanente de Conciliation ne pourra prendre de décisions sur le fond que si tous ses membres sont présents.

(2) Sauf dispositions contraires du présent Traité, les décisions de la Commission seront prises à la majorité des voix. Chaque membre disposera d'une voix, celle du Président étant décisive en cas de partage.

ART. 13. Les Parties Contractantes s'engagent à faciliter les travaux de la Commission de Conciliation et, en particulier, à lui fournir, dans la plus large mesure possible, tous documents et informations utiles, ainsi qu'à user des moyens dont elles disposent pour lui permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

ART. 14. (1) Pendant la durée des travaux de la Commission de Conciliation, chacun des commissaires recevra une indemnité dont le montant sera arrêté, d'un commun accord, entre les Parties Contractantes.

(2) Chaque Gouvernement apportera ses propres frais et une part égale des frais communs de la Commission, les indemnités prévues à l'alinéa premier étant comprises parmi ces frais communs.

## CHAPITRE II

ART. 15. Tous les différends autres que ceux visés à l'article premier, qui viendraient à s'élever entre les Parties Contractantes et ne pourraient être résolus, dans un délai raisonnable, par la procédure diplomatique ordinaire, seront soumis à la Commission permanente de Conciliation. Il sera

ART. 12. (1) The Permanent Conciliation Commission may not take any decision upon the fundamental question at issue unless all its members are present.

(2) Except as otherwise provided in the present Treaty, the decisions of the Commission shall be taken by a majority vote. Each member shall have one vote, and in the event of a tie the President shall have the casting vote.

ART. 13. The Contracting Parties undertake to facilitate the labors of the Conciliation Commission, and in particular to supply it to the greatest possible extent with all relevant documents and information, and also to use the means at their disposal to enable it to summon and hear witnesses or experts in their territory and according to their laws, and to visit the localities in question.

ART. 14. (1) During the proceedings of the Conciliation Commission, each of the Commissioners shall receive an allowance to be fixed by agreement between the Contracting Parties.

(2) Each Government shall defray its own expenses and an equal share of the common expenses of the Commission, the allowances provided for in paragraph 1 being included among these common expenses.

## CHAPTER II

ART. 15. All disputes, other than those covered by Article 1, that may arise between the Contracting Parties and that it may not prove possible to settle within a reasonable time by the ordinary diplomatic procedure, shall be laid before the Permanent Conciliation Commission. In this case action shall

procédé dans ce cas conformément aux articles 5 à 14 du présent Traité.

ART. 16. Si les Parties ne peuvent être conciliées, le litige sera, à la requête d'une seule des Parties, soumis pour décision à un tribunal arbitral qui, à défaut d'autre accord entre les Parties, sera composé de cinq membres désignés, pour chaque cas particulier, suivant la méthode prévue à l'article 4 du présent Traité, en ce qui concerne la Commission de Conciliation.

ART. 17. (1) Lorsqu'il y aura lieu à arbitrage entre elles en vertu de l'article 16, les Parties Contractantes s'engagent à conclure, dans un délai de trois mois à compter du jour où l'une des Parties aura adressé à l'autre la demande d'arbitrage, un compromis spécial concernant l'objet du litige, ainsi que les modalités de la procédure.

(2) Si ce compromis ne peut être conclu dans le délai prévu, il y sera obligatoirement suppléé conformément aux stipulations de l'article 2 du présent Traité.

### CHAPITRE III

ART. 18. S'il s'agit d'un différend qui, à teneur de la législation interne de l'une des Parties, relève de la compétence des tribunaux, y compris les tribunaux administratifs, la Partie défenderesse pourra s'opposer à ce qu'il soit soumis à la procédure de conciliation, à la procédure du règlement judiciaire ou à la procédure d'arbitrage prévues par le présent Traité avant qu'un jugement définitif ait été rendu, dans un délai raisonnable, par l'autorité judiciaire compétente.

be taken as provided in Articles 5 to 14 of the present Treaty.

ART. 16. If the Parties cannot be brought to an agreement, the dispute shall, at the request of either one of the Parties, be referred to a tribunal of arbitration, which, unless the Parties otherwise agree, shall consist of five members appointed, for each particular case, by the method provided for in Article 4 of the present Treaty for the Conciliation Commission.

ART. 17. (1) When there is occasion for arbitration between them under the terms of Article 16, the Contracting Parties undertake to conclude, within three months from the day on which one of them shall have made to the other a request for arbitration, a special *compromis* regarding the subject of the dispute and the details of the procedure.

(2) If this *compromis* cannot be concluded within the stipulated time-limit, it shall be supplied compulsorily in accordance with the provisions of Article 2 of the present Treaty.

### CHAPTER III

ART. 18. If the dispute is one which, according to the municipal law of one of the Parties, falls within the jurisdiction of the courts, including the administrative courts, the defendant Party may oppose the submission of the dispute to the procedure of conciliation, to the procedure of judicial settlement, or to the procedure of arbitration, provided for in the present Treaty, until a judgment with final effect has been delivered within a reasonable time by the competent judicial authority.

ART. 19. Si la Cour permanente de Justice internationale ou le Tribunal arbitral établissait qu'une décision d'une instance judiciaire ou de toute autre autorité relevant de l'une des Parties Contractantes se trouve entièrement ou partiellement en opposition avec le droit des gens et si le droit interne de cette Partie ne permettait pas ou ne permettait qu'imparfaitement d'effacer par voie administrative les conséquences de la décision dont il s'agit, la sentence judiciaire ou arbitrale déterminerait la nature et l'étendue de la réparation à accorder à la Partie lésée.

ART. 20. Durant la procédure de conciliation, la procédure judiciaire ou la procédure arbitrale, les Parties Contractantes s'abstiendront de toute mesure pouvant avoir une répercussion sur l'acceptation des propositions de la Commission de Conciliation ou sur l'exécution de l'arrêt de la Cour permanente de Justice internationale ou de la sentence du Tribunal arbitral. A cet effet, la Commission de Conciliation, la Cour de Justice et le Tribunal arbitral ordonneront, le cas échéant, quelles mesures provisionnelles doivent être prises.

ART. 21. Les contestations qui surgiraient au sujet de l'interprétation du présent Traité seront, sauf accord contraire, soumises directement à la Cour permanente de Justice internationale par voie de simple requête.

ART. 22. Si, lors de l'expiration du présent Traité, une procédure de conciliation, de règlement judiciaire ou d'arbitrage se trouve pendante, elle suivra son cours jusqu'à son achèvement, conformément aux stipulations du présent Traité.

ART. 19. Should the Permanent Court of International Justice or the arbitral tribunal determine that a decision of a court of law or any other authority of one of the Contracting Parties is wholly or in part contrary to international law, and should the municipal law of the Party not permit, or only partially permit, of the consequences of the decision in question being annulled by administrative action, the judgment or arbitral award shall determine the nature and extent of the reparation to be made to the injured Party.

ART. 20. During the conciliation proceedings, the judicial proceedings, or the arbitral proceedings, the Contracting Parties shall refrain from taking any measure that might affect the acceptance of the Conciliation Commission's proposals or the execution of the judgment of the Permanent Court of International Justice or of the award of the arbitral tribunal. To this purpose, the Conciliation Commission, the Court of Justice, or the arbitral tribunal shall, if necessary, order what provisional measures are to be taken.

ART. 21. Any disputes that may arise as to the interpretation of the present Treaty shall, unless it be agreed otherwise, be submitted directly to the Permanent Court of International Justice by a simple application.

ART. 22. If, at the expiration of the present Treaty, conciliation, judicial settlement, or arbitration proceedings are pending, they shall take their course until their conclusion, in accordance with the provisions of the present Treaty.

ART. 23. (1) Le présent Traité sera ratifié. Les instruments de ratification en seront échangés à Varsovie dans le plus bref délai possible.

(2) Le présent Traité entrera en vigueur le trentième jour après l'échange des ratifications et aura une durée de trois ans à partir de son entrée en vigueur. S'il n'est pas dénoncé six mois avant l'expiration de ce délai, il sera considéré comme renouvelé pour une nouvelle période de trois années, et ainsi de suite.

En foi de quoi, les Plénipotentiaires susnommés ont signé le présent Traité.

Fait à Bruxelles, en double exemplaire, le 25 Octobre 1928.

Tytus Filipowicz  
J. Makowski  
Hymans

ART. 23. (1) The present Treaty shall be ratified, and the instruments of ratification shall be exchanged at Warsaw as soon as possible.

(2) The present Treaty shall come into force on the thirtieth day after the exchange of ratifications, and shall be valid for three years from its entry into force. Unless it is denounced six months before the expiration of that period, it shall be deemed to be renewed for a further term of three years, and similarly thereafter.

In witness whereof the above-named Plenipotentiaries have signed the present Treaty.

Done in duplicate at Brussels, October 25, 1928.

Tytus Filipowicz  
J. Makowski  
Hymans

#### PERMANENT COMMISSION OF CONCILIATION

No information available.

### No. 128

#### SWEDEN-THE UNITED STATES OF AMERICA:TREATY OF ARBITRATION

Signed at Washington October 27, 1928; ratifications exchanged April 15, 1929.

Original text <sup>1</sup> from Sweden, *Överenskommelser med frammande Makter*, 1929, No. 12.<sup>2</sup>

His Majesty the King of Sweden and the President of the United States of America

Determined to prevent so far as in their power lies any interruption in the peaceful relations that have always existed between the two nations;

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them; and

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements

<sup>1</sup> The Swedish text is also authentic.

<sup>2</sup> See also United States of America, *Treaty Series*, No. 783.

for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the Powers of the world;

Have decided to conclude a new treaty of arbitration enlarging the scope and obligations of the arbitration convention signed at Washington on June 24, 1924, and for that purpose they have appointed as their respective Plenipotentiaries:

His Majesty the King of Sweden,  
W. Boström, Envoy Extraordinary and Minister Plenipotentiary at Washington; and

The President of the United States of America,

Frank B. Kellogg, Secretary of State of the United States of America;

Who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I. All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to the Permanent International Commission constituted pursuant to the treaty signed at Washington, October 13, 1914, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

The special agreement in each case shall be made on the part of Sweden in accordance with its constitutional laws and on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof.

ART. II. The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(a) is within the domestic jurisdiction of either of the High Contracting Parties,

(b) involves the interests of third Parties,

(c) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine,

(d) depends upon or involves the observance of the obligations of Sweden in accordance with the Covenant of the League of Nations.

ART. III. The present treaty shall be ratified by His Majesty the King of Sweden with the consent of the Swedish Riksdag and by the President of the United States of America by and with the advice and consent of the Senate thereof.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications, from which date the arbitration convention signed June 24,

1924, shall cease to have any force or effect. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the Swedish and English languages, both texts having equal force, and herewith affixed their seals.

Done at Washington the twenty-seventh day of October, in the year of our Lord one thousand nine hundred and twenty-eight.

W. Boström  
Frank B. Kellogg

### No. 129

## TREATY OF COMPULSORY ADJUDICATION: THE OPTIONAL CLAUSE OF THE PROTOCOL OF SIGNATURE OF THE STATUTE OF THE PERMANENT COURT OF INTER- NATIONAL JUSTICE

Signatories: Austria – Belgium – Brazil – Bulgaria – China – Costa Rica – Denmark – Dominican Republic – Estonia – Ethiopia – Finland – France – Germany – Guatemala – Haiti – Hungary – Latvia – Liberia – Lithuania – Luxemburg – The Netherlands – Norway – Panama – Portugal – Salvador – Spain – Sweden – Switzerland – Uruguay.<sup>1</sup>

### I. ARTICLE 36 OF THE STATUTE

Original texts from League of Nations, *Treaty Series*, VI, 402–403.

(Translation)

La compétence de la Cour s'étend à toutes affaires que les parties lui soumettront, ainsi qu'à tous les cas spécialement prévus dans les traités et conventions en vigueur.

Les Membres de la Société et Etats mentionnés à l'Annexe au Pacte pourront, soit lors de la signature ou de la ratification du Protocole, auquel le présent Acte est joint, soit ultérieurement, déclarer reconnaître dès à présent comme obligatoire, de plein droit et sans convention spéciale vis-à-vis de tout autre Membre ou Etat acceptant la même obligation, la juridiction de la Cour sur toutes ou

The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in Treaties and Conventions in force.

The Members of the League of Nations and the States mentioned in the Annex to the Covenant may, either when signing or ratifying the protocol to which the present Statute is adjoined, or at a later moment, declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other Member or State accepting the same obligation, the jurisdiction of the Court in all

<sup>1</sup> For signatories since November 11, 1928, see section III, below.

quelques-unes des catégories de différends d'ordre juridique ayant pour objet:

(a) L'interprétation d'un traité;

(b) Tout point de droit international;

(c) La réalité de tout fait qui, s'il était établi, constituerait la violation d'un engagement international;

(d) La nature ou l'étendue de la réparation due pour la rupture d'un engagement international.

La déclaration ci-dessus visée pourra être faite purement et simplement ou sous condition de réciprocité de la part de plusieurs ou de certains Membres ou États, ou pour un délai déterminé.

En cas de contestation sur le point de savoir si la Cour est compétente, la Cour décide.

or any of the classes of legal disputes concerning:

(a) The interpretation of a Treaty;

(b) Any question of International Law;

(c) The existence of any fact which, if established, would constitute a breach of an international obligation;

(d) The nature or extent of the reparation to be made for the breach of an international obligation.

The declaration referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain Members or States, or for a certain time.

In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

## II. THE OPTIONAL CLAUSE OF THE PROTOCOL

Original texts and translations from League of Nations, *Treaty Series*, and the Permanent Court of International Justice, *Publication*, Series E.

From League of Nations, *Treaty Series*, VI, 384 (Protocol of Signature).

Les soussignés, dûment autorisés, déclarent en outre, au nom de leur gouvernement, reconnaître dès à présent<sup>1</sup> comme obligatoire, de plein droit et sans convention spéciale, la juridiction de la Cour conformément à l'article 36, § 2 du statut de la Cour et dans les termes suivants:

The undersigned, being duly authorised thereto, further declare, on behalf of their Government, that, from this date, they accept as compulsory, *ipso facto* and without special Convention, the jurisdiction of the Court in conformity with Article 36, § 2, of the Statute of the Court, under the following conditions:

### AUSTRIA

Signed March 14, 1922.

From *Treaty Series*, VI, 388.

(Translation)

Au nom de la République d'Autriche, je déclare reconnaître comme obligatoire, de plein droit et sans

On behalf of the Austrian Republic, I declare that the latter recognises, in relation to any other Mem-

<sup>1</sup> Ratification of the declaration is not required by the text of the Optional Clause; however, it can be reserved.



convention spéciale vis-à-vis de tout autre Membre ou Etat acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour permanente, purement et simplement, pour la durée de cinq ans.

14 mars 1922.

Emmerich Pflügl

ber or State which accepts the same obligation, that is to say, on the condition of reciprocity, the jurisdiction of the Permanent Court as compulsory, *ipso facto* and without any special convention, for a period of five years.

March 14, 1922.

Emmerich Pflügl

Renewed January 12, 1927; ratification deposited March 13, 1927.

From *Treaty Series*, L, 159-160

Au nom de la République d'Autriche et sous réserve de ratification, le soussigné déclare reconnaître comme obligatoire, de plein droit et sans convention spéciale vis-à-vis de tout autre Membre de la Société des Nations ou Etat acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour, purement et simplement, pour une nouvelle période de dix années, à dater du dépôt de l'instrument de ratification.

Genève, le 12 janvier 1927.

Emerich Pflügl

(Translation)

On behalf of the Austrian Republic and subject to ratification, the undersigned recognises, in relation to any other Member of the League of Nations or State accepting the same obligation, that is to say on condition of reciprocity, the jurisdiction of the Court as compulsory *ipso facto* and without special convention, for a further period of ten years from the date of the deposit of the instrument of ratification.

Geneva, January 12, 1927.

Emerich Pflügl

#### BELGIUM

Signed September 25, 1925; ratification deposited March 10, 1926.

From *Treaty Series*, XXXIX, 160

Au nom du Gouvernement belge, je déclare reconnaître comme obligatoire de plein droit et sans convention spéciale, vis-à-vis de tout autre Membre ou Etat acceptant la même obligation, la juridiction de la Cour, conformément à l'article 36, paragraphe 2, du Statut de la Cour, pour une durée de 15 années, sur tous les différends qui s'élèveraient après la ratification de la présente déclaration au sujet de situations ou de faits postérieurs à cette ratification, sauf les cas où les Parties auraient

(Translation)

On behalf of the Belgian Government, I recognize as compulsory, *ipso facto* and without special agreement, in relation to any other Member or State accepting the same obligation, the jurisdiction of the Court in conformity with Article 36, paragraph 2, of the Statute of the Court for a period of fifteen years, in any disputes arising after the ratification of the present declaration with regard to situations or facts subsequent to this ratification, except in cases where the Parties have agreed or

convenu ou conviendraient d'avoir recours à un autre mode de règlement pacifique.

shall agree to have recourse to another method of pacific settlement.

Genève, le 25 septembre 1925.

Geneva, September 25, 1925.

P. Hymans

P. Hymans

BRAZIL

Signed November 1, 1921; in force since February 5, 1930.

*From Treaty Series, VI, 387.*

L'instrument de ratification, déposé auprès du Secrétariat permanent de la Société des Nations par le Gouvernement du Brésil, contient le passage suivant:

The instrument of ratification deposited with the Permanent Secretariat of the League of Nations. by the Brazilian Government contains the following passage:

"... declarando aceitar, de accôrdo com a mesma resolução do Poder Legislativo Nacional, a jurisdição obrigatoria da referida Côrte, pelo prazo de cinco annos, sob condição de reciprocidade e desde que tambem a acceitem, pelo menos, duas das Potencias com assento permanente no Conselho Executivo da Liga das Nações."

Pour copie conforme:

D. Anzilotti

(Translation)

"... et déclarons accepter, en vertu de la même résolution du Pouvoir Législatif du Brésil, la juridiction obligatoire de ladite Cour, pour une période de cinq années, sous condition de réciprocité et dès que cette juridiction sera aussi acceptée par deux au moins des Puissances représentées d'une manière permanente au Conseil de la Société des Nations."

(Translation)

"... we declare to recognise as compulsory, in accordance with the said resolution of the National Legislature, the jurisdiction of the said Court for the period of five years, on condition of reciprocity and as soon as it has likewise been recognised as such by two at least of the Powers permanently represented on the Council of the League of Nations."

BULGARIA

Signed 1921; ratification deposited August 12, 1921.

*From Treaty Series, VI, 386.*

(Translation)

Au nom du Gouvernement du Royaume de Bulgarie, je déclare reconnaître comme obligatoire, de plein droit et sans convention spéciale vis-à-vis de tout autre

On behalf of the Government of the Kingdom of Bulgaria, I recognise, in relation to any other Member or State which accepts the same obligation, the jurisdic-

Membre ou Etat acceptant la même obligation, la juridiction de la Cour permanente de Justice internationale, purement et simplement.

Pomenov

tion of the Court as compulsory, *ipso facto* and without any special convention, unconditionally.

Pomenov

#### CHINA

Signed May 13, 1922; expired and not renewed.

From *Treaty Series*, VI, 388.

(Translation)

Le Gouvernement Chinois reconnaît comme obligatoire de plein droit et sans convention spéciale, vis-à-vis de tout autre Membre ou Etat acceptant la même obligation, c'est-à-dire à condition de réciprocité, la juridiction de la Cour, conformément à l'article 36, § 2, du Statut de la Cour pour la durée de cinq années.

Le 13 mai 1922.

Ts. F. Tang

The Chinese Government recognize as compulsory *ipso facto* and without special convention, in relation to any Member or State which accepts the same obligation, that is to say on the sole condition of reciprocity, the jurisdiction of the Court in conformity with article 36, § 2, of the Statute of the Court for a period of five years.

May 13, 1922.

Ts. F. Tang

#### COSTA RICA

Signed before January 28, 1921, ratification of the Statute of the Permanent Court not yet deposited.

From *Treaty Series*, VI, 385

(Translation)

Sous réserve de réciprocité:

Manuel M. de Peralta

On condition of reciprocity.

Manuel M. de Peralta

#### DENMARK

Signed before January 28, 1921; ratification deposited June 13, 1921.

From *Treaty Series*, VI, 384

(Translation)

Au nom du Gouvernement danois et sous réserve de ratification, je déclare reconnaître comme obligatoire, de plein droit et sans convention spéciale vis-à-vis de tout autre Membre ou Etat acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour, purement et simplement pour la durée de cinq années.

Herluf Zahle

On behalf of the Danish Government and subject to ratification, I recognise, in relation to any Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention, for a period of five years.

Herluf Zahle

## DENMARK

Renewed December 11, 1925; ratification deposited March 28, 1926.

From *Treaty Series*, XXXIX, 166.

(Translation)

Au nom du Gouvernement danois et sous réserve de ratification je déclare reconnaître comme obligatoire de plein droit et sans convention spéciale, vis-à-vis de tout autre Membre ou Etat acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour, purement et simplement, pour une période ultérieure de dix années.

On behalf of the Government of Denmark and subject to ratification, I recognise, in relation to any other Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention, for a further period of ten years.

Genève, le 11 décembre 1925.

Geneva, December 11, 1925.

A. Oldenburg

A. Oldenburg

## DOMINICAN REPUBLIC

Signed September 30, 1924; ratification not yet deposited.

From *Treaty Series*, XXVII, 417.

(Translation)

Au nom du Gouvernement de la République Dominicaine et sous réserve de ratification, je déclare reconnaître de plein droit et sans convention spéciale, vis-à-vis de tout autre Membre de la Société ou Etat acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour, purement et simplement.

On behalf of the Government of the Dominican Republic and subject to ratification, I recognise, in relation to any other Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention.

Genève, le 30 septembre 1924.

Geneva, September 30, 1924.

Jacinto R. de Castro

Jacinto R. de Castro

## ESTONIA

Signed May 2, 1923.

From *Treaty Series*, XV, 305, and XXVII, 419

Un des instruments de ratification déposés au Secrétariat de la Société des Nations, le 2 mai 1923, par le Gouvernement d'Esthonie contient le passage suivant:

One of the instruments of ratification deposited with the Secretariat of the League of Nations on May 2, 1923, by the Esthonian Government contains the following passage:

"La République d'Esthonie déclare reconnaître comme obligatoire de plein droit et sans convention spéciale, vis-à-vis de tout autre Membre ou Etat acceptant la même obligation, c'est-à-dire à condition de réciprocité, la juridiction de la Cour conformément à l'article 36, § 2, du Statut de la Cour, pour la durée de cinq années, sur tout différend futur à propos duquel les parties ne sont pas convenues d'avoir recours à un autre mode de règlement pacifique."

Pour copie conforme:

Le 28 novembre 1924.  
van Hamel.

Ratification du Protocole.

Esthonie . . . Dépôt: 2 mai 1923.  
Instrument: 25 avril 1923.

Renewed June 25, 1928, for a period of ten years as from May 2, 1928.

See *Treaty Series*, LXXII, 452; and Permanent Court of International Justice, *Publications*, Series E, No. 6, p. 476, French ed., pp. 467-468.

"The Esthonian Republic declares to recognise as compulsory *ipso facto* and without special agreement, in relation to any other Member or State accepting the same obligation, that is to say on condition of reciprocity, the jurisdiction of the Court, in conformity with Article 36, paragraph 2, of the Statute of the Court, for a period of five years, in any future dispute in respect of which the Parties have not agreed to have recourse to another method of pacific settlement."

Ratification of the Protocol.

Esthonia . . . Deposit: May 2, 1923.

Instrument: April 25, 1923.

#### ETHIOPIA (ABYSSINIA)

Signed July 12, 1926, ratification deposited July 16, 1926.

From *Treaty Series*, XLV, 97

Le soussigné déclare, au nom du Gouvernement impérial d'Ethiopie, reconnaître comme obligatoire de plein droit et sans convention spéciale vis-à-vis de tout Membre ou Etat acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour, conformément à l'article 36, paragraphe 2, du Statut, pour une durée de cinq années en exceptant les différends futurs à propos desquels les parties auraient convenu d'avoir recours à un autre mode de règlement pacifique.

Genève, le 12 juillet 1926.

Lagarde, duc d'Entotto,  
etc., etc., etc.

(Translation)

On behalf of the Imperial Ethiopian Government the undersigned recognises as compulsory *ipso facto* and without special agreement, in relation to any other Member or State accepting the same obligation, that is to say, on condition of reciprocity, the jurisdiction of the Court in conformity with Article 36, paragraph 2, of the Statute, for a period of five years, excepting disputes in respect of which the parties have agreed to have recourse to another method of pacific settlement.

Geneva, July 12, 1926.

Lagarde Duc d'Entotto,  
etc., etc., etc.

## FINLAND

Signed in 1921; ratification deposited April 6, 1922.

From *Treaty Series*, VI, 385.

(Translation)

Au nom du Gouvernement de la République de Finlande et sous réserve de ratification, je déclare reconnaître comme obligatoire, de plein droit et sans convention spéciale vis-à-vis de tout autre Membre ou Etat acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour, purement et simplement, pour une durée de cinq années.

Enckell

On behalf of the Government of the Republic of Finland, and subject to ratification, I recognise, in relation to any other Member or State which accepts the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without any special convention, for a period of five years.

Enckell

Renewed March 3, 1927; in force.

From Permanent Court of International Justice, *Publications*, Series E, No. 3, p. 341.

(Translation)

Au nom du Gouvernement de la République de Finlande, et à partir du 6 avril 1927, je déclare reconnaître comme obligatoire, de plein droit et sans convention spéciale, vis-à-vis de tout autre Membre ou Etat acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour purement et simplement, pour une durée de dix années.

Genève, le 3 mars 1927.

R. Erich

On behalf of the Government of the Republic of Finland and as from April 6th, 1927, I recognize, in relation to any other Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory *ipso facto* and without any special convention, for a period of ten years.

Geneva, March 3rd, 1927.

R. Erich

## FRANCE

Signed October 2, 1924; replaced by new declaration signed September 19, 1929. See below, p. 880.

From *Treaty Series*, XXVII, 418.

(Translation)

Je déclare que le Gouvernement de la République française adhère à la disposition facultative de l'article 36, § 2, du Statut de la Cour, sous réserve de ratification, sous réserve de réciprocité, pour

I hereby declare that, subject to ratification, the French Government gives its adhesion to the Optional Clause of Article 36, paragraph 2, of the Statute of the Court, on the condition of reci-

une durée de quinze années avec la faculté de dénonciation au cas où le Protocole d'arbitrage, de sécurité et de réduction des armements, signé en date de ce jour, deviendrait caduc, et, d'autre part, sous le bénéfice des observations faites à la première Commission de la cinquième Assemblée, aux termes desquelles "l'une des Parties en litige pourra appeler l'autre devant le Conseil de la Société des Nations à l'effet de procéder à l'essai de règlement pacifique prévu au § 3 de l'article 15 du Pacte, et, pendant ledit essai de conciliation, aucune Partie ne pourra citer l'autre devant la Cour de Justice."

Le 2 octobre 1924.

Ari. Briand

procity, for a period of fifteen years, with power of denunciation, should the Protocol of Arbitration, Security and the Reduction of Armaments, signed this day, lapse, and further subject to the observations made at the First Committee of the Fifth Assembly, according to the terms of which one of the Parties to the dispute may bring the said dispute before the Council of the League of Nations for the purposes of the pacific settlement laid down in paragraph 3 of Article 15 of the Covenant, and during such proceedings neither Party may take proceedings against the other in the Court.

October 2, 1924.

Ari. Briand

#### GERMANY

Signed September 23, 1927; ratification deposited February 29, 1928.

From Permanent Court of International Justice, *Publications*, Series E, No. 6, pp. 475-476; French ed., p. 467.

(Translation)

Au nom du Gouvernement allemand, je déclare reconnaître comme obligatoire de plein droit et sans convention spéciale, vis-à-vis de tout autre Membre ou État acceptant la même obligation, la juridiction de la Cour, conformément à l'article 36, paragraphe 2, du Statut de la Cour, pour une durée de cinq années sur tous les différends qui s'élèveraient après la ratification de la présente déclaration au sujet de situations ou de faits postérieurs à cette ratification, sauf les cas où les Parties auraient convenu ou conviendraient d'avoir recours à un autre mode de règlement pacifique.

Genève, 23 septembre 1927.

Stresemann

On behalf of the German Government, I recognize as compulsory, *ipso facto* and without special agreement, in relation to any other Member or State accepting the same obligation, the jurisdiction of the Court in conformity with Article 36, paragraph 2, of the Statute of the Court for a period of five years in any disputes arising after the ratification of the present declaration with regard to situations or facts subsequent to this ratification, except in cases where the parties have agreed or shall agree to have recourse to another method of pacific settlement.

Geneva, September 23rd, 1927.

Stresemann

GUATEMALA

Signed December 17, 1926; ratification not yet deposited.

From *Treaty Series*, L, 159.

(Translation)

Au nom de la République de Guatémala, je déclare accepter sous réserve de ratification et sous condition de réciprocité la juridiction de la Cour sur toutes catégories de différends d'ordre juridique ayant pour objet:

On behalf of the Republic of Guatemala, I accept, subject to ratification and on the sole condition of reciprocity, the jurisdiction of the Court in all the classes of legal disputes concerning:

- (a) L'interprétation d'un traité;
- (b) Tout point de droit international;
- (c) La réalité de tout fait qui, s'il était établi, constituerait la violation d'un engagement international;
- (d) La nature ou l'étendue de la réparation due pour la rupture d'un engagement international.

- (a) The interpretation of a treaty;
- (b) Any question of international law;
- (c) The existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) The nature or extent of the reparation to be made for the breach of an international obligation.

Genève, 17 décembre 1926.

F. A. Figueroa

Geneva, December 17, 1926.

F. A. Figueroa

HAITI

Signed in 1921; in force.

From *Treaty Series*, VI, 387.

(Translation)

Au nom de la République d'Haiti, je déclare reconnaître la compétence obligatoire de la Cour permanente de Justice internationale.

On behalf of the Republic of Haiti, I recognise the jurisdiction of the Permanent Court of International Justice as compulsory.

F. Addor,  
Consul

F. Addor,  
Consul

HUNGARY

Signed September 14, 1928; ratification deposited August 13, 1929.

From *Treaty Series*, LXXVIII, 435-436.

(Translation)

Au nom du Gouvernement royal hongrois, je déclare, sous réserve de ratification, reconnaître comme obligatoire de plein droit et sans convention spéciale, vis-à-vis de tout autre Membre ou Etat acceptant la même obligation, c'est-à-

On behalf of the Royal Hungarian Government, and subject to ratification, I recognise, in relation to any other Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the



dire sous condition de réciprocité, la juridiction de la Cour, conformément à l'article 36, § 2, du Statut, pour une durée de cinq ans à dater du dépôt de l'instrument de ratification.

Genève, le 14 septembre 1928.

Louis Walkö

Court as compulsory *ipso facto* and without special convention, in conformity with Article 36, paragraph 2, of the Statute, for a period of five years to be reckoned as from the deposit of the instrument of ratification.

Geneva, September 14, 1928.

Louis Walkö

#### LATVIA

Signed September 11, 1923; replaced by new declaration signed September 10, 1929. See below, p. 884.

From *Treaty Series*, XV, 304.

Au nom du Gouvernement letton et sous réserve de ratification par la Saeima, je déclare reconnaître comme obligatoire de plein droit et sans convention spéciale, vis-à-vis de tout autre Membre ou Etat acceptant la même obligation, c'est-à-dire à condition de réciprocité, la juridiction de la Cour conformément à l'article 36, § 2, du Statut de la Cour, pour la durée de cinq années, sur tout différend futur à propos duquel les parties ne sont pas convenues d'avoir recours à un autre mode de règlement pacifique.

Genève, le 11 septembre 1923.

Z. A. Meierovics

#### (Translation)

On behalf of the Latvian Government and subject to ratification by the Saeima I recognise in relation to any Member or State accepting the same obligation, that is to say on the sole condition of reciprocity, the jurisdiction of the Court as compulsory *ipso facto* and without special convention in conformity with Article 36, paragraph 2 of the Statute of the Court for a period of five years, in any future dispute as to which the Parties have not agreed to have recourse to some other method of pacific settlement.

Z. A. Meierovics

#### LIBERIA

Signed in 1921; ratification not yet deposited January 1, 1931.

From *Treaty Series*, VI, 386.

Au nom du Gouvernement de la République de Libéria et sous réserve de ratification par le Sénat libérien, je déclare reconnaître comme obligatoire, de plein droit et sans convention spéciale vis-à-vis de tout autre Membre ou Etat acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour, purement et simplement.

B. Lehman

#### (Translation)

On behalf of the Government of the Republic of Liberia, and subject to ratification by the Liberian Senate, I recognise, in relation to any other Member or State which accepts the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without any special convention.

B. Lehman

LITHUANIA

Signed October 5, 1921; ratification deposited May 16, 1922; renewed January 14, 1930, for five years.

From *Treaty Series*, VI, 387.

Pour la durée de cinq ans.

5 octobre 1921.

Galvanauskas

(Translation)

For a period of five years.

October 5, 1921.

Galvanauskas

LUXEMBURG

Signed in 1921; replaced by new declaration signed September 15, 1930  
See below, pp. 884-885.

From *Treaty Series*, VI, 385.

(Translation)

Au nom du Gouvernement luxembourgeois et sous réserve de ratification, je déclare reconnaître comme obligatoire, de plein droit et sans convention spéciale vis-à-vis de tout autre Membre ou Etat acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour, purement et simplement, pour une durée de cinq années.

Lefort

On behalf of the Government of Luxemburg and subject to ratification, I recognise, in relation to any Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention, for a period of five years.

Lefort

THE NETHERLANDS

Signed August 6, 1921.

From *Treaty Series*, VI, 385-386.

La déclaration suivante a été faite par le Chargé d'Affaires des Pays-Bas au moment du dépôt de l'instrument de ratification et se trouve ainsi dans le procès-verbal de dépôt du dit instrument:

"Au nom du Gouvernement néerlandais, je déclare reconnaître comme obligatoire, de plein droit et sans convention spéciale vis-à-vis de tout autre Membre ou Etat acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour conformément à l'article 36, § 2 du statut de la Cour, pour la

The following declaration was made by the Netherlands Chargé d'Affaires at the moment of the deposit of the deed of ratification and is contained in the Procès-Verbal of Deposit of the deed:

"On behalf of the Government of the Netherlands, I recognise, in relation to any other Member or State which accepts the same obligation, that is to say, on the condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without any special convention, in conformity with Article 36, § 2, of the Statute of the

durée de cinq années, sur tout différend futur à propos duquel les parties ne sont pas convenues d'avoir recours à un autre mode de règlement pacifique."

Mosselmans,

Chargé d'Affaires a. i. des  
Pays-Bas.

Pour copie conforme:  
D. Anzilotti.

Court, for a period of five years, in respect of any future dispute in regard to which the parties have not agreed to have recourse to some other means of friendly settlement."

Mosselmans,

Chargé d'Affaires a. i. des  
Pays-Bas.

Renewed September 2, 1926; in force.

From *Treaty Series*, XLV, 98

Au nom du Gouvernement néerlandais, je déclare reconnaître comme obligatoire de plein droit et sans convention spéciale, vis-à-vis de tout autre Membre ou Etat acceptant la même obligation, c'est-à-dire à condition de réciprocité, la juridiction de la Cour conformément à l'article 36, paragraph 2, du Statut de la Cour, pour une durée de dix années à partir du 6 août 1926, sur tous les différends futurs, à l'exception de ceux à propos desquels les parties seraient convenues, après l'entrée en vigueur du Statut de la Cour permanente de Justice internationale, d'avoir recours à un autre mode de règlement pacifique.

Genève, le 2 septembre 1926.

W. Doude van Troostwijk

(Translation)

On behalf of the Netherlands Government, I recognise as compulsory, *ipso facto* and without special agreement, in relation to any other Member or State accepting the same obligation, that is to say, on condition of reciprocity, the jurisdiction of the Court, in conformity with Article 36, paragraph 2, of the Statute of the Court, for a period of ten years as from August 6, 1926, on any future disputes excepting those in regard to which the Parties would have agreed, after the coming into force of the Statute of the Permanent Court of International Justice, to have recourse to another method of pacific settlement.

Geneva, September 2, 1926.

W. Doude van Troostwijk

#### NORWAY

Signed September 6, 1921; ratification deposited October 3, 1921.

From *Treaty Series*, VI, 387.

(Translation)

Au nom du Gouvernement norvégien et sous réserve de ratification, je déclare reconnaître comme obligatoire, de plein droit et sans convention spéciale vis-à-vis de tout autre Membre ou Etat acceptant la même obligation, c'est-à-dire sous condition de réciprocité,

On behalf of the Government of His Majesty the King of Norway, and subject to ratification, I recognise, in relation to any other Member or State which accepts the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as

cité, la juridiction de la Cour, purement et simplement, pour la durée de cinq années.

6 septembre 1921.

Fridtjof Nansen

compulsory, *ipso facto*, and without any special convention, for a period of five years.

September 6, 1921.

Fridtjof Nansen

Renewed September 22, 1926; in force.

From *Treaty Series*, XLV, 98.

(Translation)

Au nom du Gouvernement norvégien et sous<sup>1</sup> réserve de ratification, je déclare reconnaître comme obligatoire de plein droit et sans convention spéciale vis-à-vis de tout autre Membre ou Etat acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour, purement et simplement pour une durée de dix années à compter du 3 octobre 1926.

Genève, le 22 septembre 1926.

Fridtjof Nansen

On behalf of the Norwegian Government and not being subject to ratification, I recognise, in relation to any other Member or State accepting the same obligation, that is to say, on condition of reciprocity, the jurisdiction of the Court as compulsory *ipso facto* and without special agreement for a period of ten years as from October 3, 1926.

Geneva, September 22, 1926.

Fridtjof Nansen

# PANAMA

Signed October 25, 1921; ratification deposited June 14, 1929.

From *Treaty Series*, VI, 387

La déclaration suivante a été transmise par M. R. A. Amador, Chargé d'Affaires de la République de Panama à Paris, dans une lettre datée du 25 octobre 1921 et adressée à sir Eric Drummond, Secrétaire général de la Société des Nations:

"Au nom du Gouvernement de Panama, je déclare reconnaître comme obligatoire, de plein droit et sans convention spéciale vis-à-vis de tout autre Membre ou Etat acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour, purement et simplement."

R. A. Amador,  
Chargé d'Affaires.

The following declaration was transmitted by M. R. A. Amador, Chargé d'Affaires of the Republic of Panama at Paris, in a letter dated October 25, 1921 addressed to Sir Eric Drummond, Secretary-General of the League of Nations:

(Translation)

"On behalf of the Government of Panama, I recognise, in relation to any other Member or State which accepts the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without any special convention."

R. A. Amador,  
Chargé d'Affaires.

<sup>1</sup> Should read 'sans.'

## PORTUGAL

Signed before January 28, 1921; ratification deposited October 8, 1921.

From *Treaty Series*, VI, 384.

(Translation)

Au nom du Portugal, je déclare reconnaître comme obligatoire, de plein droit et sans convention spéciale vis-à-vis de tout autre Membre ou Etat acceptant la même obligation, la juridiction de la Cour, purement et simplement.

Affonso Costa

On behalf of Portugal, I recognise, in relation to any Member or State accepting the same obligation, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention.

Affonso Costa

## SALVADOR

Signed before January 28, 1921; ratification of Statute of the Permanent Court of International Justice deposited August 29, 1930.

From *Treaty Series*, VI, 385.

(Translation)

Sous réserve de réciprocité:

J. Gustavo Guerrero  
Arturo R. Avila

On condition of reciprocity.

J. Gustavo Guerrero  
Arturo R. Avila

## SPAIN

Signed September 21, 1928; in force.

From *Treaty Series*, LXXVIII, 436.

(Translation)

Au nom du Gouvernement de Sa Majesté le Roi d'Espagne, je déclare reconnaître comme obligatoire, de plein droit et sans convention spéciale vis-à-vis de tout autre Membre ou tout<sup>1</sup> acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour pour une période de dix années, sur tous les différends qui s'élèveraient après la signature de la présente déclaration, au sujet de situations ou de faits postérieurs à cette signature, sauf le cas où les Parties auraient convenu ou conviendraient d'avoir recours à un autre mode de règlement pacifique.

Genève, le 21 septembre 1928.

J. Quiñones de León

On behalf of the Government of His Majesty the King of Spain, I recognise as compulsory *ipso facto* and without special agreement, in relation to any other Member or State accepting the same obligation, that is to say, on condition of reciprocity, the jurisdiction of the Court for a period of ten years, in any disputes arising after the signature of the present declaration with regard to situations or facts subsequent to this signature, except in cases where the Parties have agreed or shall agree to have recourse to another method of pacific settlement.

Geneva, September 21, 1928.

J. Quiñones de León

<sup>1</sup> Misprint for 'Etat.'

L'acceptation par l'Espagne de la disposition facultative déploie tous ses effets dès le 21 Septembre 1928, la déclaration ci-dessus n'étant pas soumise à ratification.

The acceptance by Spain of the Optional Clause is objective as from September 21, 1928, the above declaration not being subject to ratification.

SWEDEN

Signed August 16, 1921.

From *Treaty Series*, VI, 386.

Au nom du Gouvernement royal suédois, je déclare reconnaître comme obligatoire, de plein droit et sans convention spéciale vis-à-vis de tout autre Membre ou Etat acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour pour une durée de cinq années.

Genève, le 16 août 1921.

P. de Adlercreutz

Renewed March 18, 1926; in force.

From *Treaty Series*, XLV, 97.

Au nom du Gouvernement royal suédois, je déclare reconnaître comme obligatoire de plein droit et sans convention spéciale vis-à-vis de tout autre Membre ou Etat acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour pour une période de dix années, à compter de la date à laquelle la déclaration du Gouvernement suédois du 16 août 1921 cessera de porter ses effets.

Genève, le 18 mars 1926.

Einar Hennings

(Translation)

On behalf of the Government of His Majesty the King of Sweden, I recognise, in relation to any other Member or State which accepts the same obligation, that is to say, on the condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without any special convention, for a period of five years.

Geneva, August 16, 1921.

P. de Adlercreutz

(Translation)

On behalf of the Royal Swedish Government, I recognise, in relation to any other Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory *ipso facto* and without special Convention, for a period of ten years to be reckoned from the date on which the Swedish Declaration of August 16, 1921, ceases to be in force.

Geneva, March 18, 1926

Einar Hennings

SWITZERLAND

Signed before January 28, 1921; ratification deposited July 25, 1921.

From *Treaty Series*, VI, 384.

Au nom du Gouvernement suisse et sous réserve de ratification par l'Assemblée fédérale, je déclare

(Translation)

On behalf of the Swiss Government and subject to ratification by the Federal Assembly, I recognise,

reconnaître comme obligatoire, de plein droit et sans convention spéciale vis-à-vis de tout autre Membre ou Etat acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour, purement et simplement, pour la durée de cinq années.

Motta

in relation to any Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention, for a period of five years.

Motta

Renewed March 1, 1926; ratification deposited July 24, 1926.

From *Treaty Series*, XLV, 97.

(Translation)

Au nom de la Confédération suisse et sous réserve de ratification, le soussigné déclare reconnaître comme obligatoire, de plein droit et sans convention spéciale vis-à-vis de tout autre Membre de la Société des Nations ou Etat acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour, purement et simplement, pour une nouvelle période de dix années, à dater du dépôt de l'instrument de ratification.

Genève, le 1<sup>er</sup> mars 1926.

Motta

On behalf of the Swiss Confederation and subject to ratification, the undersigned recognises, in relation to any other Member of the League of Nations or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention, for a period of ten years to be reckoned as from the deposit of the instrument of ratification.

Geneva, March 1, 1926.

Motta

#### URUGUAY

Signed before January 28, 1921; ratification deposited September 27, 1921.

From *Treaty Series*, VI, 385.

(Translation)

Au nom du Gouvernement de l'Uruguay, je déclare reconnaître comme obligatoire, de plein droit et sans convention spéciale vis-à-vis de tout autre Membre de la Société ou Etat acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour, purement et simplement.

B. Fernandez y Medina

On behalf of the Government of Uruguay, I recognise, in relation to any Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention.

B. Fernandez y Medina

### III. THE OPTIONAL CLAUSE (CONTINUED)· SIGNATORIES AFTER NOVEMBER 11, 1928

#### ALBANIA

Signed, and ratification deposited, September 17, 1930

From League of Nations, C L 255 1930 V

(Translation)

Au nom du Royaume d'Albanie et sous réserve de ratification, je déclare reconnaître comme obligatoire de plein droit et sans convention spéciale vis-à-vis de tout autre Membre de la Société des Nations ou Etat acceptant la même obligation, c'est à dire sous condition de réciprocité, la Disposition facultative prévue à l'article 36 du Statut de la Cour permanente de Justice Internationale, pour une durée de cinq années, à dater du dépôt de l'instrument de ratification, sur tous les différends énumérés dans ledit article qui s'élèveraient après la ratification de cette déclaration au sujet de situations ou de faits postérieurs à ladite ratification, autres que

(a) les différends ayant trait au Statut territorial de l'Albanie

(b) les différends relatifs à des questions qui, d'après le droit international, relèvent exclusivement de la juridiction du Royaume d'Albanie,

(c) les différends concernant, directement ou indirectement, l'application des traités ou conventions acceptés par le Royaume d'Albanie et prévoyant un autre mode de règlement pacifique

On behalf of the Kingdom of Albania and subject to ratification, I recognize as compulsory *ipso facto* and without special agreement in relation to any other Member of the League of Nations or State accepting the same obligation, that is to say on condition of reciprocity, the Optional Clause provided for by Article 36 of the Statute of the Permanent Court of International Justice, for a period of five years from the date of the deposit of the instrument of ratification, in any of the disputes enumerated in the said article arising after the ratification of the present declaration with regard to situations or facts subsequent to this ratification, other than

(a) disputes relating to the territorial status of Albania,

(b) disputes with regard to questions which, by international law, fall exclusively within the jurisdiction of the Kingdom of Albania,

(c) disputes relating directly or indirectly to the application of treaties or conventions accepted by the Kingdom of Albania and providing for another method of pacific settlement

17-9-1930

Mehdi Frasheri

17-9-1930

Mehdi Frasheri



## AUSTRALIA

Signed September 20, 1929; ratification deposited August 18, 1930.

From Permanent Court of International Justice, *Publications*, Series E, No. 6, pp. 483-484.

On behalf of His Majesty's Government in the Commonwealth of Australia and subject to ratification, I accept as compulsory *ipso facto* and without special convention on condition of reciprocity the jurisdiction of the Court in conformity with Article 36, paragraph 2, of the Statute of the Court, for a period of ten years and thereafter until such time as notice may be given to terminate the acceptance, over all disputes arising after the ratification of the present declaration with regard to situations or facts subsequent to the said ratification:

other than disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement; and

disputes with the government of any other Member of the League which is a member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the Parties have agreed or shall agree; and

disputes with regard to questions which by international law fall exclusively within the jurisdiction of the Commonwealth of Australia;

and subject to the condition that His Majesty's Government in the Commonwealth of Australia reserve the right to require that proceedings in the Court shall be suspended in respect of any dispute which has been submitted to and is under consideration by the Council of the League of Nations, provided that notice to suspend is given after the dispute has been submitted to the Council and is given within ten days of the notification of the initiation of the proceedings in the Court, and provided also that such suspension shall be limited to a period of twelve months or such longer period as may be agreed by the Parties to the dispute or determined by a decision of all the Members of the Council other than the parties to the dispute.

Geneva, September 20th, 1929.

Granville Ryrie

## CANADA

Signed September 20, 1929; ratification deposited July 28, 1930.

From Permanent Court of International Justice, *Publications*, Series E, No. 6, pp. 484-485

On behalf of His Majesty's Government in Canada and subject to ratification, I accept as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the Court in conformity with Article 36, paragraph 2, of the Statute, for a period of ten years and thereafter until such time as notice may be given to terminate the acceptance, in all disputes arising after ratification of the present declaration with regard to situations or facts subsequent to said ratification:

other than disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement; and

disputes with the government of any other Member of the League which is a member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the Parties have agreed or shall agree; and

disputes with regard to questions which by international law fall exclusively within the jurisdiction of the Dominion of Canada;

and subject to the condition that His Majesty's Government in Canada reserve the right to require that proceedings in the Court shall be suspended in respect of any dispute which has been submitted to and is under consideration by the Council of the League of Nations, provided that notice to suspend is given after the dispute has been submitted to the Council and is given within ten days of the notification of the initiation of the proceedings in the Court, and provided also that such suspension shall be limited to a period of twelve months or such longer period as may be agreed by the Parties to the dispute or determined by a decision of all the Members of the Council other than the Parties to the dispute.

September 20th, 1929.

R. Dandurand

#### CZECHOSLOVAKIA

Signed September 19, 1929; ratification not yet deposited January 1, 1931.

From Permanent Court of International Justice, *Publications*, Series E, No. 6, pp. 481-482; French ed., p. 473

#### (Translation)

Au nom de la République tchécoslovaque et sous réserve de ratification, je déclare reconnaître comme obligatoire de plein droit et sans convention spéciale vis-à-vis de tout autre Membre de la Société des Nations où État acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour, conformément à l'article 36, paragraphe 2, de son Statut, pour une durée de dix années à dater du dépôt de l'instrument de ratification, sur tous les différends qui s'élèveraient après la ratification de la présente déclaration au sujet de situations ou de faits postérieurs à cette ratification, sauf les cas où les Parties auraient convenu ou conviendraient d'avoir recours à un autre mode de règlement pacifique, et sous réserve

On behalf of the Czechoslovak Republic and subject to ratification, I recognize as compulsory *ipso facto* and without special agreement in relation to any other Member of the League of Nations or State accepting the same obligation, that is to say, on condition of reciprocity, the jurisdiction of the Court, in conformity with Article 36, paragraph 2, of its Statute, for a period of ten years from the date of the deposit of the instrument of ratification, in any dispute arising after the ratification of the present declaration with regard to situations or facts subsequent to this ratification, except in cases where the Parties have agreed or shall agree to have recourse to another method of pacific settlement, and subject to the right, for either of

de la faculté, pour l'une ou l'autre des Parties en litige, de soumettre le différend, préalablement à tout recours à la Cour, au Conseil de la Société des Nations.

Genève, le 19 septembre 1929.

Dr. Eduard Benes

the Parties to the dispute, to submit the dispute, before any recourse to the Court, to the Council of the League of Nations.

Geneva, September 19th, 1929.

Dr. Eduard Benes

#### FRANCE

Signed September 19, 1929; ratification not yet deposited January 1, 1931.

From Permanent Court of International Justice, *Publications*, Series E, No 6, pp 478-479; French ed., p 470.

#### (Translation)

Au nom du Gouvernement de la République française, je déclare, sous réserve de ratification, reconnaître comme obligatoire de plein droit et sans convention spéciale vis-à-vis des autres Membres ou États qui acceptent la même obligation, la juridiction de la Cour, conformément à l'article 36, paragraphe 2, du Statut de ladite Cour, pour une durée de cinq années, sur tous les différends qui s'élèveraient après la ratification de la présente déclaration au sujet des situations ou des faits postérieurs à cette ratification, et qui n'auraient pu être réglés par une procédure de conciliation, ou par le Conseil, aux termes de l'article 15, alinéa 6, du Pacte, sous réserve du cas où les Parties seraient convenues ou conviendraient d'avoir recours à un autre mode de règlement arbitral. Cette déclaration remplace la déclaration du 2 octobre 1924 devenue caduque.

Genève, le 19 septembre 1929.

Loucheur

On behalf of the Government of the French Republic and subject to ratification, I recognize as compulsory, *ipso facto* and without special agreement, in relation to any other Member or State accepting the same obligation, the jurisdiction of the Court, in conformity with Article 36, paragraph 2, of the Statute of the Court, for a period of five years, in any disputes arising after the ratification of the present declaration with regard to situations or facts subsequent to this ratification, and which could not have been settled by a procedure of conciliation or by the Council according to the terms of Article 15, paragraph 6, of the Covenant, with reservation as to the case where the Parties have agreed or shall agree to have recourse to another method of settlement by arbitration. This declaration replaces the declaration of October 2nd, 1924, which has now lapsed.

Geneva, September 19th, 1929.

Loucheur

#### GREECE

Signed September 12, 1929.

From Permanent Court of International Justice, *Publications*, Series E, No 6, p. 478; French ed., p. 469.

#### (Translation)

Dûment autorisé par le Gouvernement hellénique, agissant en

Duly authorized by the Hellenic Government, acting in virtue of

vertu d'une approbation spéciale du pouvoir législatif, je déclare accepter au nom de la Grèce la disposition facultative prévue à l'article 36 du Statut de la Cour permanente de Justice internationale, pour une durée de cinq ans et sous condition de réciprocité, pour toutes les catégories de différends énumérées dans ledit article 36, à l'exception

(a) des différends ayant trait au statut territorial de la Grèce, y compris ceux relatifs à ses droits de souveraineté sur ses ports et ses voies de communications;

(b) des différends ayant directement ou indirectement trait à l'application des traités ou conventions acceptés par elle et prévoyant une autre procédure.

Cette acceptation déploie ses effets dès le moment de la signature de la présente déclaration.

Genève, le 12 septembre 1929.

A. Michalakopoulos

special approval by the legislative power, I declare that I accept on behalf of Greece the Optional Clause provided in Article 36 of the Statute of the Permanent Court of International Justice, for a period of five years and on condition of reciprocity for all the classes of disputes mentioned in the said Article 36, with the exception of:

(a) disputes relating to the territorial status of Greece, including disputes relating to its rights of sovereignty over its ports and lines of communication;

(b) disputes relating directly or indirectly to the application of treaties or conventions accepted by Greece and providing for another procedure.

This acceptance is effective as from the date of signature of the present declaration.

Geneva, September 12th, 1929.

A. Michalakopoulos

# GREAT BRITAIN

Signed September 19, 1929; ratification deposited February 5, 1930.

From Permanent Court of International Justice, *Publications*, Series E, No 6, pp 479-480

On behalf of His Majesty's Government in the United Kingdom and subject to ratification, I accept as compulsory *ipso facto* and without special convention on condition of reciprocity the jurisdiction of the Court in conformity with Article 36, paragraph 2, of the Statute of the Court, for a period of ten years and thereafter until such time as notice may be given to terminate the acceptance, over all disputes arising after the ratification of the present declaration with regard to situations or facts subsequent to the said ratification:

other than disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement; and

disputes with the government of any other Member of the League which is a member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the Parties have agreed or shall agree; and

disputes with regard to questions which by international law fall exclusively within the jurisdiction of the United Kingdom;

and subject to the condition that His Majesty's Government reserve the right to require that proceedings in the Court shall be suspended in respect of any dispute which has been submitted to and is under consideration by the Council of the League of Nations, provided that notice to suspend is given after the dispute has been submitted to the Council and is given within ten days of the notification of the initiation of the proceedings in the Court, and provided also that such suspension shall be limited to a period of twelve months or such longer period as may be agreed by the Parties to the dispute or determined by a decision of all the Members of the Council other than the Parties to the dispute.

Geneva, September 19th, 1929.

Arthur Henderson

#### INDIA

Signed September 19, 1929; ratification deposited February 5, 1930.

From Permanent Court of International Justice, *Publications*, Series E, No 6, p. 482.

On behalf of the Government of India and subject to ratification, I accept as compulsory *ipso facto* and without special convention on condition of reciprocity the jurisdiction of the Court in conformity with Article 36, paragraph 2, of the Statute of the Court, for a period of ten years and thereafter until such time as notice may be given to terminate the acceptance, over all disputes arising after the ratification of the present declaration with regard to situations or facts subsequent to the said ratification:

other than disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement; and

disputes with the government of any other Member of the League which is a member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the Parties have agreed or shall agree, and

disputes with regard to questions which by international law fall exclusively within the jurisdiction of India;

and subject to the condition that the Government of India reserve the right to require that proceedings in the Court shall be suspended in respect of any dispute which has been submitted to and is under consideration by the Council of the League of Nations, provided that notice to suspend is given after the dispute has been submitted to the Council and is given within ten days of the notification of the initiation of the proceedings in the Court, and provided also that such suspension shall be limited to a period of twelve months or such longer period as may be agreed by the Parties to the dispute or determined by a decision of all the Members of the Council other than the Parties to the dispute.

Geneva, September 19th, 1929.

Md. Habibullah

## IRISH FREE STATE

Signed September 14, 1929; ratification deposited July 11, 1930.

From Permanent Court of International Justice, *Publications*, Series E, No. 6, p. 478.

On behalf of the Irish Free State, I declare that I accept as compulsory *ipso facto* and without special convention the jurisdiction of the Court in conformity with Article 36 of the Statute of the Permanent Court of International Justice for a period of twenty years and on the sole condition of reciprocity. This declaration is subject to ratification.

Geneva, September 14th, 1929.

P. McGilligan

## ITALY

Signed September 9, 1929; ratification not yet deposited January 1, 1931.

From Permanent Court of International Justice, *Publications*, Series E, No. 6, p. 477; French ed., p. 468

## (Translation)

Le Gouvernement de l'Italie déclare reconnaître comme obligatoire de plein droit, vis-à-vis de tout autre Membre ou État acceptant la même obligation, et pour la durée de cinq ans, sous réserve de tout moyen de solution prévu par une convention spéciale, et dans le cas où une solution par la voie diplomatique ou éventuellement par l'action du Conseil de la Société des Nations n'interviendrait pas, la juridiction de la Cour sur les catégories suivantes de différends d'ordre juridique, qui pourraient se vérifier après la ratification de la présente déclaration, ayant pour objet:

- (a) interprétation d'un traité;
- (b) tout point de droit international;
- (c) la réalité de tout fait qui, s'il était établi, constituerait la rupture d'une obligation internationale;
- (d) la nature ou l'étendue de la réparation due pour la rupture d'une obligation internationale.

Genève, le 9 septembre 1929.

Vittorio Scialoja

The Italian Government declares to recognize as compulsory *ipso facto*, in relation to any other Member or State accepting the same obligation, and for a period of five years, subject to any other method of settlement provided by a special convention, and in any case where a solution through the diplomatic channel or further by the action of the Council of the League of Nations could not be reached, the jurisdiction of the Court on the following classes of legal disputes arising after the ratification of the present declaration, and concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation.

Geneva, September 9th, 1929.

Vittorio Scialoja

## LATVIA

Signed September 10, 1929; ratification deposited February 26, 1930.

From Permanent Court of International Justice, *Publications*, Series E, No. 6, p. 477; French ed., p. 469.

(Translation)

Au nom du Gouvernement letton et sous réserve de ratification par la Saeima, je déclare reconnaître comme obligatoire de plein droit et sans convention spéciale, vis-à-vis de tout autre Membre ou État acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour, conformément à l'article 36, paragraphe 2, du Statut de la Cour, pour une durée de cinq années, sur tous les différends qui s'élèveraient après la ratification de la présente déclaration au sujet de situations ou de faits postérieurs à cette ratification, sauf les cas où les Parties auraient convenu ou conviendraient d'avoir recours à un autre mode de règlement pacifique. Cette déclaration remplace celle fait le 11 septembre 1923.

Genève, le 10 septembre 1929.

A. Balodis

On behalf of the Latvian Government and subject to ratification by the Saeima, I recognize as compulsory, *ipso facto* and without special agreement in relation to any other Member or State accepting the same obligation, that is to say, on condition of reciprocity, the jurisdiction of the Court in conformity with Article 36, paragraph 2, of the Statute of the Court, for a period of five years, in any disputes arising after the ratification of the present declaration with regard to situations or facts subsequent to this ratification, except in cases where the Parties have agreed or shall agree to have recourse to another method of pacific settlement. This declaration replaces the declaration made on September 11th, 1923.

Geneva, September 10th, 1929.

A. Balodis

## LUXEMBURG

Signed September 15, 1930.

From League of Nations, C L 254 1930 V

(Translation)

Le Gouvernement du Grand Duché de Luxembourg déclare reconnaître comme obligatoire, de plein droit et sans convention spéciale, vis-à-vis de tout autre État acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour, conformément à l'article 36, paragraphe 2 du Statut, sur tous les différends qui s'élèveraient après la signature de la présente déclaration, au sujet de situations ou de faits postérieurs à cette signature,

The Government of the Grand Duchy of Luxembourg recognizes as compulsory, *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say on condition of reciprocity, the jurisdiction of the Court in conformity with Article 36, paragraph 2, of the Statute, in any disputes arising after the signature of the present declaration with regard to situations or facts subsequent to this signature, except in cases where the

sauf les cas où les Parties auraient convenu ou conviendraient d'avoir recours à une autre procédure ou à un autre mode de règlement pacifique La présente déclaration est faite pour une durée de cinq ans Si elle n'est pas dénoncée six mois avant l'expiration de ce délai, elle sera considérée comme renouvelée pour une nouvelle période de cinq ans et ainsi de suite

parties have agreed or shall agree to have recourse to another procedure or to another method of pacific settlement The present declaration is made for a period of five years Unless it is denounced six months before the expiration of that period, it shall be considered as renewed for a further period of five years and similarly thereafter

Geneve, le 15 septembre 1930

Geneva, September 15, 1930

Bech

Bech

NEW ZEALAND

Signed September 19, 1929, ratification deposited March 29, 1930

From Permanent Court of International Justice *Publications* Series F No 6, pp 480-481

On behalf of His Majesty's Government in the Dominion of New Zealand and subject to ratification, I accept as compulsory *ipso facto* and without special convention on condition of reciprocity the jurisdiction of the Court in conformity with Article 36, paragraph 2, of the Statute of the Court for a period of ten years and thereafter until such time as notice may be given to terminate the acceptance over all disputes arising after the ratification of the present declaration with regard to situations or facts subsequent to the said ratification

other than disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement and

disputes with the government of any other Member of the League which is a member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the Parties have agreed or shall agree and

disputes with regard to questions which by international law fall exclusively within the jurisdiction of the Dominion of New Zealand

and subject to the condition that His Majesty's Government in New Zealand reserve the right to require that proceedings in the Court shall be suspended in respect of any dispute which has been submitted to and is under consideration by the Council of the League of Nations, provided that notice to suspend is given after the dispute has been submitted to the Council and is given within ten days of the notification of the initiation of the proceedings in the Court and provided also that such suspension shall be limited to a period of twelve months or such longer period as may be agreed by the Parties to the dispute or determined by a decision of all the Members of the Council other than the Parties to the dispute

Geneva, September 19th, 1929

C J Parr



## NICARAGUA

Signed September 24, 1929; ratification of the Protocol of Signature of the Statute of the Permanent Court of International Justice not yet deposited January 1, 1931.

From Permanent Court of International Justice, *Publications*, Series E, No. 6, p. 485; French ed., p. 476.

(Translation)

Au nom de la République de Nicaragua, je déclare reconnaître comme obligatoire et sans condition la juridiction de la Cour permanente de Justice internationale.

Genève, le 24 septembre 1929.

T. F. Medina

On behalf of the Republic of Nicaragua I recognize as compulsory unconditionally the jurisdiction of the Permanent Court of International Justice.

Geneva, September 24th, 1929.

T. F. Medina

## PERSIA

Signed October 2, 1930; ratification not yet deposited January 1, 1931.

From League of Nations, C.L. 278. 1930 V.

(Translation)

Le Gouvernement Impérial de Perse déclare reconnaître comme obligatoire, de plein droit et sans convention spéciale, vis-à-vis de tout autre Etat acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour permanente de Justice internationale, conformément à l'article 36, paragraphe 2 du Statut de la Cour, sur tous les différends qui s'élèveraient après la ratification de la présente déclaration, au sujet de situations ou de faits ayant directement ou indirectement trait à l'application des traités ou conventions acceptés par la Perse et postérieurs à la ratification de cette déclaration, exception faite pour:

(a) les différends ayant trait au statut territorial de la Perse, y compris ceux relatifs à ses droits de souveraineté sur ses îles et ports;

(b) les différends au sujet desquels les parties auraient convenu ou conviendraient d'avoir recours à un autre mode de règlementation pacifique;

The Imperial Government of Persia recognizes as compulsory *ipso facto* and without special agreement in relation to any other State accepting the same obligation, that is to say on condition of reciprocity, the jurisdiction of the Permanent Court of International Justice, in accordance with Article 36, paragraph 2 of the Statute of the Court, in any disputes arising after the ratification of the present declaration with regard to situations or facts relating directly or indirectly to the application of treaties or conventions accepted by Persia and subsequent to the ratification of this declaration, with the exception of:

(a) disputes relating to the territorial status of Persia, including those concerning the rights of sovereignty of Persia over its Islands and Ports;

(b) disputes in regard to which the Parties have agreed or shall agree to have recourse to some other method of peaceful settlement;

(c) les différends relatifs à des questions qui, d'après le droit international, relèveraient exclusivement de la juridiction de la Perse

Toutefois, le Gouvernement Impérial de Perse se réserve le droit de demander la suspension de la procédure devant la Cour pour tout différend soumis au Conseil de la Société des Nations

La présente déclaration est faite pour une durée de six ans, à l'expiration de ce délai, elle continuera à avoir ses pleins effets jusqu'à ce que notification soit donnée de son abrogation

Genève, les 2 octobre 1930

Hussein Alâ

(c) disputes with regard to questions which, by international law, fall exclusively within the jurisdiction of Persia

However, the Imperial Government of Persia reserves the right to require that proceedings in the Court shall be suspended in respect of any dispute which has been submitted to the Council of the League of Nations

The present declaration is made for a period of six years. At the expiration of that period, it shall continue to bear its full effects until notification is given of its abrogation

Geneva, October 2, 1930

Hussein Alâ

#### PERU

Signed September 19, 1929, ratification not yet deposited January 1, 1931

From Permanent Court of International Justice *Publications*, Series F, No 6 pp 482-483 French ed p 474

#### (Transition)

Au nom de la République péruvienne, et sous réserve de ratification, je reconnais comme obligatoire, de plein droit, sans convention spéciale vis à vis de tout autre Membre de la Société des Nations ou de tout État acceptant la même obligation, la juridiction de la Cour, conformément à l'article 36 paragraphe 2, de son Statut, pour une durée de dix années à dater du dépôt de l'instrument de ratification, sur tous les différends qui s'élèveraient au sujet de situations et faits postérieurs à cette ratification, sauf le cas où les Parties seraient convenues, soit d'avoir recours à un autre mode de règlement arbitral, soit de soumettre préalablement le différend au Conseil de la Société des Nations

Genève, le 19 septembre 1929

M H Cornejo

On behalf of the Republic of Peru and subject to ratification, I recognize as compulsory *ipso facto* without special agreement in relation to any other Member of the League of Nations or to any State accepting the same obligation, the jurisdiction of the Court, in conformity with Article 36, paragraph 2 of its Statute for a period of ten years from the date of deposit of the instrument of ratification, in any dispute arising with regard to situations and facts subsequent to that ratification, except in cases where the Parties have agreed either to have recourse to another method of settlement by arbitration, or to submit the dispute previously to the Council of the League of Nations

Geneva, September 19th 1929

M H Cornejo

## POST-WAR TREATIES

### RUMANIA

Signed October 8, 1930, ratification not yet deposited January 1, 1931

From League of Nations, C I 284 1930. V

(Translation)

Le Gouvernement roumain déclare adhérer à la clause facultative de l'article 36 du Statut de la Cour permanente de Justice internationale, pour une période de cinq années, à l'égard des Gouvernements reconnus par la Roumanie et sous condition de réciprocité, pour les différends juridiques devant de situations ou faits postérieurs à la ratification par le Parlement roumain de la présente adhésion et sous réserve des matières soumises à une procédure spéciale établie ou à convenir et de la faculté pour la Roumanie de soumettre le différend, préalablement à tout recours à la Cour, au Conseil de la Société des Nations

Sont exceptés néanmoins

(a) toute question de fond ou de procédure pouvant amener directement ou indirectement la discussion de l'intégrité territoriale actuelle et des droits souverains de la Roumanie, y compris ceux sur ses ports et ses voies de communication,

(b) les différends relatifs à des questions qui, d'après le droit international, revèlent de la juridiction de la Roumanie

Genève, le 8 octobre 1930

C Antoniadé

The Roumanian Government declares that it accedes to the Optional Clause of Article 36 of the Statute of the Permanent Court of International Justice for a period of five years in respect of the Governments recognized by Roumania and on condition of reciprocity in regard to legal disputes arising out of situations or facts subsequent to the ratification by the Roumanian Parliament of this accession and with the exception of matters for which a special procedure has been or may be established and subject to the right of Roumania to submit the dispute to the Council of the League of Nations before having recourse to the Court

The following are, however, excepted

(a) any question of substance or of procedure which might directly or indirectly cause the existing territorial integrity of Roumania and her sovereign rights, including her rights over her ports and communications to be brought into question

(b) disputes relating to questions which, according to international law, fall under the domestic jurisdiction of Roumania

Geneva, October 8, 1930

C Antoniadé

## SIAM

Signed September 20, 1929; ratification deposited May 7, 1930.

From Permanent Court of International Justice, *Publications*, Series E, No. 6, p. 483.

On behalf of the Siamese Government, I recognize, subject to ratification, in relation to any other Member or State which accepts the same obligation, that is to say, on the condition of reciprocity, the jurisdiction of the Court as compulsory *ipso facto* and without any special convention, in conformity with Article 36, paragraph 2, of the Statute of the Court for a period of ten years in all disputes, as to which no other means of pacific settlement is agreed upon between the Parties.

Geneva, September 20th, 1929.

Varnvaidya

## SOUTH AFRICA

Signed September 19, 1929; ratification deposited April 7, 1930.

From Permanent Court of International Justice, *Publications*, Series E, No. 6, p. 480.

On behalf of His Majesty's Government in the Union of South Africa and subject to ratification, I accept as compulsory *ipso facto* and without special convention on condition of reciprocity the jurisdiction of the Court in conformity with Article 36, paragraph 2, of the Statute of the Court, for a period of ten years and thereafter until such time as notice may be given to terminate the acceptance, over all disputes arising after the ratification of the present declaration with regard to situations or facts subsequent to the said ratification:

other than disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement; and

disputes with the government of any other Member of the League which is a member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the Parties have agreed or shall agree; and

disputes with regard to questions which by international law fall exclusively within the jurisdiction of the Union of South Africa;

and subject to the condition that His Majesty's Government in the Union of South Africa reserve the right to require that proceedings in the Court shall be suspended in respect of any dispute which has been submitted to and is under consideration by the Council of the League of Nations, provided that notice to suspend is given after the dispute has been submitted to the Council and is given within ten days of the notification of the initiation of the proceedings in the Court, and provided also that such suspension shall be limited to a period of twelve months or such longer period as may be agreed by the Parties to the dispute or determined by a decision of all the Members of the Council other than the Parties to the dispute.

Geneva, September 19th, 1929.

Eric H. Louw

## YUGOSLAVIA

Signed May 16, 1930; ratification deposited November 24, 1930.

From Permanent Court of International Justice, *Publications*, Series E, No. 6, p. 485; French ed., p. 477.

(Translation)

Au nom du Royaume de Yougoslavie et sous réserve de ratification, je déclare reconnaître comme obligatoire de plein droit et sans convention spéciale vis-à-vis de tout autre Membre de la Société des Nations, ou État dont le gouvernement est reconnu par le Royaume de Yougoslavie, et acceptant la même obligation, c'est-à-dire sous condition de réciprocité, la juridiction de la Cour permanente de Justice internationale, conformément à l'article 36 de son Statut, pour une durée de cinq années à dater du dépôt de l'instrument de ratification, sur tous les différends qui s'élèveraient après la ratification de la présente déclaration, sauf les différends relatifs à des questions qui, d'après le droit international, relèvent exclusivement de la juridiction du Royaume de Yougoslavie et sauf les cas où les Parties auraient convenu ou conviendraient d'avoir recours à un autre mode de règlement pacifique.

16 mai 1930.

Dr. V. Marinkovitch

On behalf of the Kingdom of Yugoslavia and subject to ratification, I recognize, as compulsory *ipso facto* and without special agreement, in relation to any other Member of the League of Nations, or State the Government of which is recognized by the Kingdom of Yugoslavia, and accepting the same obligation, that is to say, on condition of reciprocity, the jurisdiction of the Permanent Court of International Justice in conformity with Article 36 of its Statute, for a period of five years from the date of the deposit of the instrument of ratification, in any disputes arising after the ratification of the present declaration, except disputes with regard to questions which, by international law, fall exclusively within the jurisdiction of the Kingdom of Yugoslavia, and except in cases where the Parties have agreed or shall agree to have recourse to some other method of peaceful settlement

May 16th, 1930.

Dr. V. Marinkovitch

IV. ON JANUARY 1, 1931, ARTICLE 36, §2, OF THE  
STATUTE WAS IN FORCE AMONG THE FOLLOWING  
THIRTY-FOUR COUNTRIES:

Albania, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Denmark, Estonia, Ethiopia (Abyssinia), Finland, Germany, Great Britain, Greece, Haiti, Hungary, India, Irish Free State, Latvia, Lithuania, Luxemburg, the Netherlands, New Zealand, Norway, Panama, Portugal, Salvador, Siam, South Africa, Spain, Sweden, Switzerland, Uruguay, and Yugoslavia.

No. 130

THE NETHERLANDS-SIAM: TREATY OF CONCILIATION  
AND ARBITRATION

Signed at the Hague, October 27, 1928; ratifications exchanged June 28, 1929.

Original text communicated by the Secretariat of the League of Nations.

(Translation)

Sa Majesté la Reine des Pays-Bas et Sa Majesté le Roi de Siam désirant reserrer les liens d'amitié qui unissent le Siam et les Pays-Bas et favoriser le règlement pacifique des différends qui pourraient naître entre les deux Pays, conformément à l'esprit du pacte de la Société des Nations, ont résolu de conclure, à cet effet, un traité de règlement judiciaire et de conciliation, et ont nommé pour Leurs Plénipotentiaires, savoir:

Sa Majesté la Reine des Pays-Bas:

Jonkheer Frans Beelaerts van Blokland, Son Ministre des Affaires Étrangères;

Sa Majesté le Roi de Siam:  
Son Altesse Sérénissime le Prince Varnvaidya, Son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté la Reine des Pays-Bas;

Her Majesty the Queen of the Netherlands and His Majesty the King of Siam,

Being desirous of strengthening the ties of friendship that unite Siam and the Netherlands and of promoting the pacific settlement, in accordance with the spirit of the Covenant of the League of Nations, of any disputes which may arise between the two countries, have decided to conclude for that purpose a treaty of judicial settlement and conciliation and have appointed as their Plenipotentiaries:

Her Majesty the Queen of the Netherlands:

Jonkheer Frans Beelaerts van Blokland, Her Minister for Foreign Affairs;

His Majesty the King of Siam:  
His Serene Highness Prince Varnvaidya, His Envoy Extraordinary and Minister Plenipotentiary to Her Majesty the Queen of the Netherlands;

lesquels, après s'être communiqué leurs pleins pouvoirs respectifs, trouvés en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE 1<sup>er</sup>. Les Hautes Parties contractantes s'engagent réciproquement à ne rechercher, dans aucun cas, autrement que par voie pacifique le règlement des litiges ou conflits qui viendraient à s'élever entre elles.

ART. 2. Sauf accord des Parties sur une autre manière de régler un différend, les Hautes Parties contractantes reconnaissent comme obligatoire pour la durée du présent traité, la juridiction de la Cour Permanente de Justice Internationale, selon le Statut de la Cour pour tous différends d'ordre juridique s'élevant entre elles et qui n'auraient pu être résolus par la voie diplomatique dans un délai raisonnable, et notamment tous différends ayant pour objet:

(a) l'interprétation d'un traité,

(b) tout point de droit international;

(c) la réalité de tout fait, qui, s'il était établi, constituerait la violation d'un engagement international;

(d) la nature ou l'étendue de la réparation due pour la rupture d'un engagement international.

En cas de contestation sur le point de savoir si la Cour est compétente pour la solution du différend conformément aux dispositions du paragraphe précédent la Cour décidera de cette question.

Chaque Partie est tenue d'exécuter le plus rapidement possible la sentence rendue par la Cour.

Who, having communicated their respective full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1. The High Contracting Parties reciprocally undertake in no case to endeavor to settle, otherwise than by pacific means, any differences or disputes which may arise between them.

ART. 2. In the absence of agreement between the Parties to settle a dispute in another manner, the High Contracting Parties recognize as binding for the duration of the present Treaty the jurisdiction of the Permanent Court of International Justice, as laid down in the Statute of the Court, in respect of all disputes of a legal nature arising between them which it has not been possible to settle within a reasonable period through the diplomatic channel, more especially all disputes relating to:

(a) The interpretation of a treaty,

(b) Any question of international law;

(c) The existence of any fact which, if established, would constitute a breach of an international obligation,

(d) The nature or extent of the reparation to be made for the breach of an international obligation.

In the event of a difference of opinion arising as to whether, according to the terms of the preceding paragraph, the Court has jurisdiction to settle the dispute, this matter shall be settled by the decision of the Court.

Each Party shall be bound to execute the award given by the Court as rapidly as possible.

Toutes questions sur lesquelles les Hautes Parties contractantes seraient divisées sans pouvoir les résoudre à l'amiable par les procédés diplomatiques ordinaires, questions dont la solution ne pourrait être recherchée par un jugement ainsi qu'il est prévu par l'alinéa premier du présent article et pour la solution desquelles une autre procédure n'a pas été prévue, seront soumises à une procédure de conciliation à instituer par un accord des Parties pour chaque cas particulier.

ART. 3. Le présent traité sera ratifié. Les instruments de ratification en seront échangés à La Haye dans le plus bref délai possible.

Le traité est conclu pour la durée de cinq ans à compter de la date de l'échange des ratifications. S'il n'est pas dénoncé six mois au moins avant l'expiration de ce terme, il demeure en vigueur pour une nouvelle période de cinq ans et ainsi de suite.

Si une procédure devant la Cour Permanente de Justice Internationale est pendante lors de l'expiration du présent traité, les dispositions de celui-ci resteront applicables.

En foi de quoi, les Plénipotentiaires susnommées ont signé le présent traité, et y ont apposé leurs cachets.

Fait, en double, à La Haye le 27 octobre 1928.

Beelaerts Van Blokland  
Varnvaidya

Should the High Contracting Parties differ on any question and be unable to reach a friendly settlement of their difference by the normal methods of diplomacy, if the question in dispute cannot be settled by a judicial decision as laid down in the first paragraph of the present article and if no other procedure is provided for its settlement, the dispute shall be submitted to a procedure of conciliation to be instituted by agreement between the Parties in each particular case.

ART. 3. The present Treaty shall be ratified. The instruments of ratification shall be exchanged at The Hague as soon as possible.

The Treaty is concluded for a period of five years from the date of the exchange of ratifications. Unless it is denounced at least six months before the expiration of that term, it shall remain in force for a further period of five years, and similarly thereafter.

If proceedings before the Permanent Court of International Justice are pending at the time when the present Treaty expires, the provisions thereof shall still be applicable.

In witness whereof the above-mentioned Plenipotentiaries have signed the present Treaty and thereto affixed their seals.

Done in duplicate at The Hague, October 27, 1928.

Beelaerts van Blokland  
Varnvaidya



## ANNEX I

THE COMPOSITION OF THE PERMANENT COMMISSIONS OF  
INVESTIGATION AND CONCILIATION CREATED BEFORE  
NOVEMBER 11, 1918, AND STILL EXISTING(a) BOLIVIA—THE UNITED STATES OF AMERICA:  
COMMISSION OF INVESTIGATION(Treaty of January 22, 1914; in force since January 8, 1915) <sup>1</sup>*President appointed by both Parties*

Vacant

*Members appointed by Bolivia*

Vacant

Vacant

*Members appointed by the United States of America*ADOLPHUS R. TALBOT. (*American.*)CHARLES L. SEYA, former Latvian Minister to the United States of  
America. (*Latvian.*)(b) PORTUGAL—THE UNITED STATES OF AMERICA:  
COMMISSION OF INVESTIGATION(Treaty of February 4, 1914; in force since October 24, 1914) <sup>2</sup>*President appointed by both Parties*

Vacant

*Members appointed by Portugal*BARBOSA MAGALHAES. (*Portuguese.*)SANCHEZ TOCA. (*Spanish.*)*Members appointed by the United States of America*JAMES M. COX. (*American.*)SIR ROBERT L. BORDEN. (*Canadian.*)<sup>1</sup> See United States of America, *Treaty Series*, No. 606.<sup>2</sup> See United States of America, *Treaty Series*, No. 600.

(c) THE UNITED STATES OF AMERICA-VENEZUELA:  
COMMISSION OF INVESTIGATION

(Treaty of March 21, 1914; in force since February 12, 1921)<sup>1</sup>

*President appointed by both Parties*

Vacant

*Members appointed by the United States of America*

CHARLES C. HYDE, Professor at Columbia University. (*American.*)

SIR JAMES RENNELL RODD, former British Ambassador to Italy. (*British.*)

*Members appointed by Venezuela*

Vacant

Vacant

(d) DENMARK-THE UNITED STATES OF AMERICA:  
COMMISSION OF INVESTIGATION

(Treaty of April 17, 1914; in force since January 19, 1915)<sup>2</sup>

*President appointed by both Parties*

JONKHEER JOHN LOUDON, Dutch Minister to France. (*Dutch.*)

*Members appointed by Denmark*

PAUL JOHANNES JØRGENSEN, Professor at the University of Copenhagen.  
(*Danish.*)

ERIC TROLLE, former Minister for Foreign Affairs. (*Swedish.*)

*Members appointed by the United States of America*

IRWIN LAUGHLIN, former Minister of the United States of America to  
Greece. (*American.*)

RICARDO ALDAO, former Minister of Finance. (*Argentinian.*)

(e) ITALY-THE UNITED STATES OF AMERICA:  
COMMISSION OF INVESTIGATION

(Treaty of May 5, 1914; in force since March 19, 1915)<sup>3</sup>

*President appointed by both Parties*

GREGERS W. W. GRAM. (*Norwegian.*)

<sup>1</sup> See United States of America, *Treaty Series*, No. 652.

<sup>2</sup> See United States of America, *Treaty Series*, No. 608.

<sup>3</sup> See United States of America, *Treaty Series*, No. 615.

*Members appointed by Italy*VAN ISEGHEM. (*Belgian.*)

Vacant

*Members appointed by the United States of America*GEORGE L. MACKINTOSH. (*American.*)JOSÉ PEDRO VARELA. (*Uruguayan.*)

## (f) NORWAY—THE UNITED STATES OF AMERICA:

## COMMISSION OF INVESTIGATION

(Treaty of June 24, 1914; in force since October 21, 1914) <sup>1</sup>*President appointed by both Parties*DIONISIO ANZILOTTI, President of the Permanent Court of International Justice. (*Italian.*)*Members appointed by Norway*EDWIN ALTEN. (*Norwegian.*)JOHANNES HELLNER, former Judge of the Supreme Court of Sweden, former Minister for Foreign Affairs. (*Swedish.*)*Members appointed by the United States of America*JAMES BROWN SCOTT, President of the Institute of International Law. (*American.*)HADJI MICHEFF. (*Bulgarian.*)

## (g) PERU—THE UNITED STATES OF AMERICA:

## COMMISSION OF INVESTIGATION

(Treaty of July 14, 1914, in force since March 4, 1915) <sup>2</sup>*President appointed by both Parties*

Vacant

*Members appointed by Peru*ANSELMO BARRETO. (*Peruvian.*)JUAN ZORILLA DE SAN MARTÍN. (*Uruguayan.*)*Members appointed by the United States of America*EUGENE WAMBAUGH, Professor at Harvard University. (*American.*)COUNT ALEXANDER SKRZYNSKI, former Minister for Foreign Affairs of Poland. (*Polish.*)<sup>1</sup> See United States of America, *Treaty Series*, No. 599.<sup>2</sup> See United States of America, *Treaty Series*, No. 613.

(h) THE UNITED STATES OF AMERICA-URUGUAY  
COMMISSION OF INVESTIGATION

(Treaty of July 20, 1914 in force since February 24, 1915) <sup>1</sup>

*President appointed by both Parties*

Vacant

*Members appointed by the United States of America*

HARRY B HUTCHINS (American)

TSUNEJIRO MIYAOKA (Japanese)

*Members appointed by Uruguay*

Vacant

Vacant

(i) BRAZIL-THE UNITED STATES OF AMERICA  
COMMISSION OF INVESTIGATION

(Treaty of July 24 1914 in force since October 28, 1916) <sup>2</sup>

*President appointed by both Parties*

Vacant

*Members appointed by Brazil*

Vacant

Vacant

*Members appointed by the United States of America*

WILLIS H BOOTH, Honorary President, International Chamber of Commerce (American)

RAOUL DANDURAND, Senator (Canadian)

(j) CHILE-THE UNITED STATES OF AMERICA  
COMMISSION OF INVESTIGATION

(Treaty of July 24 1914 in force since January 19, 1916) <sup>3</sup>

*President appointed by both Parties*

Vacant

<sup>1</sup> See United States of America *Treaty Series* No 611

<sup>2</sup> See United States of America *Treaty Series* No 627

<sup>3</sup> See United States of America, *Treaty Series*, No 621

*Members appointed by Chile*

Vacant

Vacant

\* *Members appointed by the United States of America*NORMAN H. DAVIS, former Under-Secretary of State. (*American.*)HANS SULZER, former Swiss Minister to the United States of America  
(*Swiss.*)(k) PARAGUAY—THE UNITED STATES OF AMERICA:  
COMMISSION OF INVESTIGATION(Treaty of August 29, 1914, in force since March 9, 1915) <sup>1</sup>\* *President appointed by both Parties*

Vacant

*Members appointed by Paraguay*

Vacant

Vacant

*Members appointed by the United States of America*JOHN G. FOSTER, former Consul-General at Ottawa. (*American.*)CONSTANTIN BRUN, Danish Minister to the United States of America.  
(*Danish*)(l) FRANCE—THE UNITED STATES OF AMERICA:  
COMMISSION OF INVESTIGATION(Treaty of September 15, 1914, in force since January 22, 1915) <sup>2</sup>*President appointed by both Parties*JONKHEER JOHN LOUDON, Dutch Minister to France. (*Dutch.*)*Members appointed by France*COUNT H. CARION DE WIART, Minister of State. (*Belgian.*)

Vacant

*Members appointed by the United States of America*OSCAR W. UNDERWOOD. (*American.*)ROMULO S. NAON. (*Argentinian.*)<sup>1</sup> See United States of America, *Treaty Series*, No. 614.<sup>2</sup> See United States of America, *Treaty Series*, No. 609.

(m) CHINA--THE UNITED STATES OF AMERICA:  
COMMISSION OF INVESTIGATION

(Treaty of September 15, 1914; in force since October 22, 1915)<sup>1</sup>

*President appointed by both Parties*

KNUT H. L. HAMMARSKJÖLD. (*Swedish.*)

*Members appointed by China*

V. K. WELLINGTON KOO. (*Chinese.*)

Vacant

*Members appointed by the United States of America*

FRANK J. GOODNOW, President of Johns Hopkins University. (*American.*)

H. J. HORST. (*Norwegian.*)

(n) GREAT BRITAIN--THE UNITED STATES OF AMERICA:  
COMMISSION OF INVESTIGATION

(Treaty of September 15, 1914; in force since November 10, 1914)<sup>2</sup>

*President appointed by both Parties*

FRIDTJOF NANSEN, Professor at the University of Oslo. (*Norwegian.*)

*Members appointed by Great Britain*

ALEXANDRE MILLERAND, former President of France. (*French.*)

Vacant.

*Alternate Commissioner for Australia*

The High Commissioner in London for the time being. (*Australian.*)

*Alternate Commissioner for Canada*

SIR CHARLES FITZPATRICK. (*Canadian.*)

*Alternate Commissioner for New Zealand*

SIR ROBERT STOUT. (*New Zealander.*)

*Alternate Commissioner for Newfoundland*

SIR WILLIAM HORWOOD. (*Newfoundlander.*)

*Alternate Commissioner for South Africa*

The High Commissioner or Acting High Commissioner in London.  
(*South African.*)

<sup>1</sup> See United States of America, *Treaty Series*, No. 619.

<sup>2</sup> See United States of America, *Treaty Series*, No. 602.

*Members appointed by the United States of America*IRVINE L. LENROOT, Senator. (*American.*)JULES JUSSERAND, former Minister for Foreign Affairs. (*French.*)(o) SPAIN-THE UNITED STATES OF AMERICA:  
COMMISSION OF INVESTIGATION(Treaty of September 15, 1914, in force since December 21, 1914) <sup>1</sup>*President appointed by both Parties*JONKHEER JOHN LOUDON, Dutch Minister to France. (*Dutch.*)*Members appointed by Spain*PABLO DE SOLEZ Y GUARDIOLA. (*Spanish.*)PABLO SPEISSER. (*Swiss.*)*Members appointed by the United States of America*PETER A. JAY, former Ambassador of the United States of America to Argentina. (*American.*)MIGUEL CRUCHAGA, former Chilean Ambassador to the United States of America (*Chilean.*)(p) ECUADOR-THE UNITED STATES OF AMERICA:  
COMMISSION OF INVESTIGATION(Treaty of October 13, 1914, in force since January 22, 1916) <sup>2</sup>

No information available.

(q) SWEDEN-THE UNITED STATES OF AMERICA:  
COMMISSION OF INVESTIGATION(Treaty of October 13, 1914, in force since January 11, 1915) <sup>3</sup>*President appointed by both Parties*MAX HUBER, Judge and former President of the Permanent Court of International Justice. (*Swiss.*)<sup>1</sup> See United States of America, *Treaty Series*, No. 605.<sup>2</sup> See United States of America, *Treaty Series*, No. 622.<sup>3</sup> See United States of America, *Treaty Series*, No. 607.

*Members appointed by Sweden*

JOHANNES HELLNFR, former Minister for Foreign Affairs (*Swedish*)  
 FREDERIK V N BEICHMANN, President of the Court of Appeal at Trond-  
 hjem, Deputy-Judge of the Permanent Court of International Justice  
 (*Norwegian*)

*Members appointed by the United States of America*

SAMUEL AVERY, Chancellor of the University of Nebraska (*American*)  
 GABRIEL HANOIAUX, former Minister for Foreign Affairs (*French*)

(7) THE NETHERLANDS THE UNITED STATES OF AMERICA  
 COMMISSION OF INVESTIGATION

(Treaty of December 18 1913 in force since March 10 1928)<sup>1</sup>

*President appointed by both Parties*

OSTIN UNDER, Professor at the University of Upsala (*Swedish*)

*Members appointed by the Netherlands*

CORNELIS VAN VOLLINGHOVEN, Professor at the University of Leyden  
 (*Dutch*)  
 R DOILFUS, Member of the Swiss National Council (*Swiss*)

*Members appointed by the United States of America*

GEORGE GRANTON WILSON, Professor at Harvard University  
 (*American*)  
 FREDERICK V RYERKA, former Czechoslovakian Minister to Switzerland  
 (*Czechoslovakian*)

## (5) CHILE URUGUAY COMMISSION OF INVESTIGATION

(Treaty of February 27 1913)<sup>2</sup>

No information available

<sup>1</sup> See League of Nations *Treaty Series* LXXXV 157 163

<sup>2</sup> See *British and Foreign State Papers* CIX 885



## ANNEX II

CONVENTION FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL  
DISPUTES SIGNED AT THE HAGUE ON OCTOBER 18, 1907

(Second Hague Convention)

Original Text from France, Ministère des Affaires Étrangères, *Deuxième Conférence  
Internationale de la Paix*, pp 161-188<sup>1</sup>English translation from Carnegie Endowment for International Peace, Division of  
International Law, *Pamphlet No. 4*, Washington D C, 1918

(Translation)

Sa Majesté l'Empereur d'Alle-  
magne, Roi de Prusse, [etc.]Animés de la ferme volonté de  
concourir au maintien de la paix  
générale,Résolus à favoriser de tous leurs  
efforts le règlement amiable des  
conflits internationaux,Reconnaissant la solidarité qui  
unit les membres de la société des  
nations civilisées,Voulant étendre l'empire du  
droit et fortifier le sentiment de  
la justice internationale,Convaincus que l'institution per-  
manente d'une juridiction arbi-  
trale accessible à tous, au sein des  
Puissances indépendantes, peut  
contribuer efficacement à ce ré-  
sultat,Considérant les avantages d'une  
organisation générale et régulière  
de la procédure arbitrale,Estimant avec l'Auguste Initia-  
teur de la Conférence interna-  
tionale de la Paix qu'il importe de  
consacrer dans un accord inter-  
national les principes d'équité et  
de droit sur lesquels reposent la  
sécurité des États et le bien-être  
des peuples,His Majesty the German Em-  
peror, King of Prussia, [etc.]Animated by the sincere desire  
to work for the maintenance of  
general peace,Resolved to promote by all the  
efforts in their power the friendly  
settlement of international dis-  
putes,Recognizing the solidarity unit-  
ing the members of the society of  
civilized nations,Desirous of extending the em-  
pire of law and of strengthening  
the appreciation of international  
justice,Convinced that the permanent  
institution of a tribunal of arbi-  
tration, accessible to all, in the  
midst of independent Powers, will  
contribute effectively to this re-  
sult,Having regard to the advan-  
tages attending the general and  
regular organization of the pro-  
cedure of arbitration,Sharing the opinion of the au-  
gust initiator of the International  
Peace Conference that it is expe-  
dient to record in an interna-  
tional agreement the principles of  
equity and right on which are  
based the security of States and  
the welfare of peoples,<sup>1</sup> See also Netherlands, Ministère des Affaires Étrangères, *Deuxième Conférence In-  
ternationale de la Paix, Actes et Documents*, I, 604-619

Désireux, dans ce but, de mieux assurer le fonctionnement pratique des Commissions d'enquête et des tribunaux d'arbitrage et de faciliter le recours à la justice arbitrale lorsqu'il s'agit de litiges de nature à comporter une procédure sommaire,

Ont jugé nécessaire de reviser sur certains points et de compléter l'oeuvre de la Première Conférence de la Paix pour le règlement pacifique des conflits internationaux

Les Hautes Parties contractantes ont résolu de conclure une nouvelle Convention à cet effet et ont nommé pour Leurs Plénipotentiaires, savoir

[Désignation des Plénipotentiaires]

Lesquels, après avoir déposé leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus de ce qui suit

#### TITRE I<sup>er</sup> — DU MAINTIEN DE LA PAIX GÉNÉRALE

ARTICLE 1<sup>er</sup> En vue de prévenir, autant que possible, le recours à la force dans les rapports entre les États, les Puissances contractantes conviennent d'employer tous leurs efforts pour assurer le règlement pacifique des différends internationaux

#### TITRE II — DES BONS OFFICES ET DE LA MÉDIATION

ART 2 En cas de dissentiment grave ou de conflit, avant d'en appeler aux armes, les Puissances contractantes conviennent d'avoir recours, en tant que les circonstances le permettront, aux bons offices ou à la médiation d'une ou de plusieurs Puissances amies

ART 3 Indépendamment de ce recours, les Puissances contractantes jugent utile et désirable

Being desirous, with this object, of insuring the better working in practice of commissions of inquiry and tribunals of arbitration, and of facilitating recourse to arbitration in cases which allow of a summary procedure,

Have deemed it necessary to revise in certain particulars and to complete the work of the First Peace Conference for the pacific settlement of international disputes,

The high contracting Parties have resolved to conclude a new Convention for this purpose, and have appointed the following as their plenipotentiaries

[Here follow the names of plenipotentiaries]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following

#### PART I — THE MAINTNANCE OF GENERAL PEACE

ARTICLE 1 With a view to obviating as far as possible recourse to force in the relations between States, the contracting Powers agree to use their best efforts to insure the pacific settlement of international differences

#### PART II — GOOD OFFICES AND MEDIATION

ART 2 In case of serious disagreement or dispute, before an appeal to arms, the contracting Powers agree to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly Powers

ART 3 Independently of this recourse, the contracting Powers deem it expedient and desirable

qu'une ou plusieurs Puissances étrangères au conflit offrent de leur propre initiative, en tant que les circonstances s'y prêtent, leurs bons offices ou leur médiation aux Etats en conflit.

Le droit d'offrir les bons offices ou la médiation appartient aux Puissances étrangères au conflit, même pendant le cours des hostilités.

L'exercice de ce droit ne peut jamais être considéré par l'une ou l'autre des Parties en litige comme un acte peu amical.

ART. 4. Le rôle du médiateur consiste à concilier les prétentions opposées et à apaiser les ressentiments qui peuvent s'être produits entre les Etats en conflit.

ART. 5. Les fonctions du médiateur cessent du moment où il est constaté, soit par l'une des Parties en litige, soit par le médiateur lui-même, que les moyens de conciliation proposés par lui ne sont pas acceptés.

ART. 6. Les bons offices et la médiation, soit sur le recours de Parties en conflit, soit sur l'initiative des Puissances étrangères au conflit, ont exclusivement le caractère de conseil et n'ont jamais force obligatoire.

ART. 7. L'acceptation de la médiation ne peut avoir pour effet, sauf convention contraire, d'interrompre, de retarder ou d'entraver la mobilisation et autres mesures préparatoires à la guerre.

Si elle intervient après l'ouverture des hostilités, elle n'interrompt pas, sauf convention contraire, les opérations militaires en cours.

ART. 8. Les Puissances contractantes sont d'accord pour recommander l'application, dans

that one or more Powers, strangers to the dispute, should, on their own initiative and as far as circumstances may allow, offer their good offices or mediation to the States at variance.

Powers strangers to the dispute have the right to offer good offices or mediation even during the course of hostilities.

The exercise of this right can never be regarded by either of the parties in dispute as an unfriendly act.

ART. 4. The part of the mediator consists in reconciling the opposing claims and appeasing the feelings of resentment which may have arisen between the States at variance.

ART. 5. The functions of the mediator are at an end when once it is declared, either by one of the parties to the dispute or by the mediator himself, that the means of reconciliation proposed by him are not accepted.

ART. 6. Good offices and mediation undertaken either at the request of the parties in dispute or on the initiative of Powers strangers to the dispute have exclusively the character of advice, and never have binding force.

ART. 7. The acceptance of mediation can not, unless there be an agreement to the contrary, have the effect of interrupting, delaying, or hindering mobilization or other measures of preparation for war.

If it takes place after the commencement of hostilities, the military operations in progress are not interrupted in the absence of an agreement to the contrary.

ART. 8. The contracting Powers are agreed in recommending the application, when circum-

les circonstances qui le permettent, d'une médiation spéciale sous la forme suivante:

En cas de différend grave compromettant la Paix, les États en conflit choisissent respectivement une Puissance à laquelle ils confient la mission d'entrer en rapport direct avec la Puissance choisie d'autre part, à l'effet de prévenir la rupture des relations pacifiques.

Pendant la durée de ce mandat dont le terme, sauf stipulation contraire, ne peut excéder trente jours, les États en litige cessent tout rapport direct au sujet du conflit, lequel est considéré comme déferé exclusivement aux Puissances médiatrices. Celles-ci doivent appliquer tous leurs efforts à régler le différend.

En cas de rupture effective des relations pacifiques, ces Puissances demeurent chargées de la mission commune de profiter de toute occasion pour rétablir la paix.

### TITRE III. — DES COMMISSIONS INTERNATIONALES D'ENQUÊTE

ART. 9. Dans les litiges d'ordre international n'engageant ni l'honneur ni des intérêts essentiels et provenant d'une divergence d'appréciation sur des points de fait, les Puissances contractantes jugent utile et désirable que les Parties qui n'auraient pu se mettre d'accord par les voies diplomatiques instituent, en tant que les circonstances le permettraient, une Commission internationale d'enquête chargée de faciliter la solution de ces litiges en éclaircissant, par un examen impartial et consciencieux, les questions de fait.

ART. 10. Les Commissions internationales d'enquête sont constituées par convention spéciale entre les Parties en litige.

stances allow, of special mediation in the following form:

In case of a serious difference endangering peace, the States at variance choose respectively a Power, to which they intrust the mission of entering into direct communication with the Power chosen on the other side, with the object of preventing the rupture of pacific relations.

For the period of this mandate, the term of which, unless otherwise stipulated, can not exceed thirty days, the States in dispute cease from all direct communication on the subject of the dispute, which is regarded as referred exclusively to the mediating Powers, which must use their best efforts to settle it.

In case of a definite rupture of pacific relations, these Powers are charged with the joint task of taking advantage of any opportunity to restore peace.

### PART III. — INTERNATIONAL COMMISSIONS OF INQUIRY

ART. 9. In disputes of an international nature involving neither honor nor vital interests, and arising from a difference of opinion on points of fact, the contracting Powers deem it expedient and desirable that the parties who have not been able to come to an agreement by means of diplomacy, should, as far as circumstances allow, institute an international commission of inquiry, to facilitate a solution of these disputes by elucidating the facts by means of an impartial and conscientious investigation.

ART. 10. International commissions of inquiry are constituted by special agreement between the parties in dispute.

La convention d'enquête précise les faits à examiner; elle détermine le mode et le délai de formation de la Commission et l'étendue des pouvoirs des commissaires.

Elle détermine également, s'il y a lieu, le siège de la Commission et la faculté de se déplacer, la langue dont la Commission fera usage et celles dont l'emploi sera autorisé devant elle, ainsi que la date à laquelle chaque Partie devra déposer son exposé des faits, et généralement toutes les conditions dont les Parties sont convenues.

Si les Parties jugent nécessaire de nommer des assesseurs, la convention d'enquête détermine le mode de leur désignation et l'étendue de leurs pouvoirs.

ART. 11. Si la convention d'enquête n'a pas désigné le siège de la Commission, celle-ci siègera à La Haye.

Le siège une fois fixé ne peut être changé par la Commission qu'avec l'assentiment des Parties.

Si la convention d'enquête n'a pas déterminé les langues à employer, il en est décidé par la Commission.

ART. 12. Sauf stipulation contraire, les Commissions d'enquête sont formées de la manière déterminée par les articles 45 et 57 de la présente Convention.

ART. 13. En cas de décès, de démission ou d'empêchement, pour quelque cause que ce soit, de l'un des commissaires ou éventuellement de l'un des assesseurs, il est pourvu à son remplacement selon le mode fixé pour sa nomination.

The inquiry convention defines the facts to be examined; it determines the mode and time in which the commission is to be formed and the extent of the powers of the commissioners.

It also determines, if there is need, where the commission is to sit, and whether it may remove to another place, the language the commission shall use and the languages the use of which shall be authorized before it, as well as the date on which each party must deposit its statement of facts, and, generally speaking, all the conditions upon which the parties have agreed.

If the parties consider it necessary to appoint assessors, the convention of inquiry shall determine the mode of their selection and the extent of their powers.

ART. 11. If the inquiry convention has not determined where the commission is to sit, it will sit at The Hague.

The place of meeting, once fixed, can not be altered by the commission except with the assent of the parties.

If the inquiry convention has not determined what languages are to be employed, the question shall be decided by the commission.

ART. 12. Unless an undertaking is made to the contrary, commissions of inquiry shall be formed in the manner determined by Articles 45 and 57 of the present Convention.

ART. 13. Should one of the commissioners or one of the assessors, should there be any, either die, or resign, or be unable for any reason whatever to discharge his functions, the same procedure is followed for filling the vacancy as was followed for appointing him.

ART. 14. Les Parties ont le droit de nommer auprès de la Commission d'enquête des agents spéciaux avec la mission de Les représenter et de servir d'intermédiaires entre Elles et la Commission.

Elles sont, en outre, autorisées à charger des conseils ou avocats nommés par Elles, d'exposer et de soutenir leurs intérêts devant la Commission.

ART. 15. Le Bureau international de la Cour permanente d'arbitrage sert de greffe aux Commissions qui siègent à La Haye, et mettra ses locaux et son organisation à la disposition des Puissances contractantes pour le fonctionnement de la Commission d'enquête.

ART. 16. Si la Commission siège ailleurs qu'à La Haye, elle nomme un Secrétaire général dont le bureau lui sert de greffe.

Le greffe est chargé, sous l'autorité du Président, de l'organisation matérielle des séances de la Commission, de la rédaction des procès-verbaux et, pendant le temps de l'enquête, de la garde des archives qui seront ensuite versées au Bureau International de La Haye.

ART. 17. En vue de faciliter l'institution et le fonctionnement des Commissions d'enquête, les Puissances contractantes recommandent les règles suivantes qui seront applicables à la procédure d'enquête en tant que les Parties n'adopteront pas d'autres règles.

ART. 18. La Commission réglera les détails de la procédure non prévus dans la convention spéciale d'enquête ou dans la présent Convention, et procédera à toutes les

ART. 14. The parties are entitled to appoint special agents to attend the commission of inquiry, whose duty it is to represent them and to act as intermediaries between them and the commission.

They are further authorized to engage counsel or advocates, appointed by themselves, to state their case and uphold their interests before the commission.

ART. 15. The International Bureau of the Permanent Court of Arbitration acts as registry for the commissions which sit at The Hague, and shall place its offices and staff at the disposal of the contracting Powers for the use of the commission of inquiry.

ART. 16. If the commission meets elsewhere than at The Hague, it appoints a secretary general, whose office serves as registry.

It is the function of the registry, under the control of the president, to make the necessary arrangements for the sittings of the commission, the preparation of the minutes, and, while the inquiry lasts, for the charge of the archives, which shall subsequently be transferred to the International Bureau at The Hague.

ART. 17. In order to facilitate the constitution and working of commissions of inquiry, the contracting Powers recommend the following rules, which shall be applicable to the inquiry procedure in so far as the parties do not adopt other rules.

ART. 18. The commission shall settle the details of the procedure not covered by the special inquiry convention or the present Convention, and shall arrange all

formalités que comporte l'administration des preuves.

ART. 19. L'enquête a lieu contradictoirement.

Aux dates prévues, chaque Partie communique à la Commission et à l'autre Partie les exposés des faits, s'il y a lieu, et, dans tous les cas, les actes, pièces et documents qu'Elle juge utiles à la découverte de la vérité, ainsi que la liste des témoins et des experts qu'Elle désire faire entendre.

ART. 20. La Commission a la faculté, avec l'assentiment des Parties, de se transporter momentanément sur les lieux où elle juge utile de recourir à ce moyen d'information ou d'y déléguer un ou plusieurs de ses membres. L'autorisation de l'État sur le territoire duquel il doit être procédé à cette information devra être obtenue.

ART. 21. Toutes constatations matérielles et toutes visites des lieux doivent être faites en présence des agents et conseils des Parties ou eux dûment appelés.

ART. 22. La Commission a le droit de solliciter de l'une ou l'autre Partie telles explications ou informations qu'elle juge utiles.

ART. 23. Les Parties s'engagent à fournir à la Commission d'enquête, dans la plus large mesure qu'Elles jugeront possible, tous les moyens et toutes les facilités nécessaires pour la connaissance complète et l'appréciation exacte des faits en question.

Elles s'engagent à user des moyens dont Elles disposent d'après leur législation intérieure, pour assurer la comparution des témoins ou des experts se trouvant sur leur territoire et cités devant la Commission.

the formalities required for dealing with the evidence.

ART. 19. On the inquiry both sides must be heard.

At the dates fixed, each party communicates to the commission and to the other party the statements of facts, if any, and, in all cases, the instruments, papers, and documents which it considers useful for ascertaining the truth, as well as the list of witnesses and experts whose evidence it wishes to be heard.

ART. 20. The commission is entitled, with the assent of the Powers, to move temporarily to any place where it considers it may be useful to have recourse to this means of inquiry or to send one or more of its members. Permission must be obtained from the State on whose territory it is proposed to hold the inquiry.

ART. 21. Every investigation, and every examination of a locality, must be made in the presence of the agents and counsel of the parties or after they have been duly summoned.

ART. 22. The commission is entitled to ask from either party for such explanations and information as it considers necessary.

ART. 23. The parties undertake to supply the commission of inquiry, as fully as they may think possible, with all means and facilities necessary to enable it to become completely acquainted with, and to accurately understand, the facts in question.

They undertake to make use of the means at their disposal, under their municipal law, to insure the appearance of the witnesses or experts who are in their territory and have been summoned before the commission.

Si ceux-ci ne peuvent comparaître devant la Commission, Elles feront procéder à leur audition devant leurs autorités compétentes.

ART. 24. Pour toutes les notifications que la Commission aurait à faire sur le territoire d'une tierce Puissance contractante, la Commission s'adressera directement au Gouvernement de cette Puissance. Il en sera de même s'il s'agit de faire procéder sur place à l'établissement de tous moyens de preuve.

Les requêtes adressées à cet effet seront exécutées suivant les moyens dont la Puissance requise dispose d'après Sa législation intérieure. Elles ne peuvent être refusées que si cette Puissance les juge de nature à porter atteinte à Sa souveraineté ou à Sa sécurité.

La Commission aura aussi toujours la faculté de recourir à l'intermédiaire de la Puissance sur le territoire de laquelle elle a son siège.

ART. 25. Les témoins et les experts sont appelés à la requête des Parties ou d'office par la Commission, et, dans tous les cas, par l'intermédiaire du Gouvernement de l'État sur le territoire duquel ils se trouvent.

Les témoins sont entendus, successivement et séparément, en présence des agents et des conseils et dans un ordre à fixer par la Commission.

ART. 26. L'interrogatoire des témoins est conduit par le Président.

Les membres de la Commission peuvent néanmoins poser à chaque témoin les questions qu'ils croient convenables pour éclaircir ou compléter sa déposition, ou pour se

If the witnesses or experts are unable to appear before the commission, the parties will arrange for their evidence to be taken before the qualified officials of their own country.

ART. 24. For all notices to be served by the commission in the territory of a third contracting Power, the commission shall apply direct to the Government of the said Power. The same rule applies in the case of steps being taken on the spot to procure evidence.

The requests for this purpose are to be executed so far as the means at the disposal of the Power applied to under its municipal law allow. They can not be rejected unless the Power in question considers they are calculated to impair its sovereign rights or its safety.

The commission will equally be always entitled to act through the Power on whose territory it sits.

ART. 25. The witnesses and experts are summoned on the request of the parties or by the commission of its own motion, and, in every case, through the Government of the State in whose territory they are.

The witnesses are heard in succession and separately, in the presence of the agents and counsel, and in the order fixed by the commission.

ART. 26. The examination of witnesses is conducted by the president.

The members of the commission may however put to each witness questions which they consider likely to throw light on and complete his evidence, or get informa-



renseigner sur tout ce qui concerne le témoin dans les limites nécessaires à la manifestation de la vérité.

Les agents et les conseils des Parties ne peuvent interrompre le témoin dans sa déposition, ni lui faire aucune interpellation directe, mais peuvent demander au Président de poser au témoin telles questions complémentaires qu'ils jugent utiles.

ART. 27. Le témoin doit déposer sans qu'il lui soit permis de lire aucun projet écrit. Toutefois, il peut être autorisé par le Président à s'aider de notes ou documents, si la nature des faits rapportés en nécessite l'emploi.

ART. 28. Procès-verbal de la déposition du témoin est dressé séance tenante et lecture en est donnée au témoin. Le témoin peut y faire tels changements et additions que bon lui semble et qui seront consignés à la suite de sa déposition.

Lecture faite au témoin de l'ensemble de sa déposition, le témoin est requis de signer.

ART. 29. Les agents sont autorisés, au cours ou à la fin de l'enquête, à présenter par écrit à la Commission et à l'autre Partie tels dires, requisitions ou résumés de fait, qu'ils jugent utiles à la découverte de la vérité.

ART. 30. Les délibérations de la Commission ont lieu à huis clos et restent secrètes.

Toute décision est prise à la majorité des membres de la Commission.

Le refus d'un membre de prendre part au vote doit être constaté dans le procès-verbal.

tion on any point concerning the witness within the limits of what is necessary in order to get at the truth.

The agents and counsel of the parties may not interrupt the witness when he is making his statement, nor put any direct question to him, but they may ask the president to put such additional questions to the witness as they think expedient.

ART. 27. The witness must give his evidence without being allowed to read any written draft. He may, however, be permitted by the president to consult notes or documents if the nature of the facts referred to necessitates their employment.

ART. 28. A minute of the evidence of the witness is drawn up forthwith and read to the witness. The latter may make such alterations and additions as he thinks necessary, which will be recorded at the end of his statement.

When the whole of his statement has been read to the witness, he is asked to sign it.

ART. 29. The agents are authorized, in the course of or at the close of the inquiry, to present in writing to the commission and to the other party such statements, requisitions, or summaries of the facts as they consider useful for ascertaining the truth.

ART. 30. The commission considers its decisions in private and the proceedings are secret.

All questions are decided by a majority of the members of the commission.

If a member declines to vote, the fact must be recorded in the minutes.

ART. 31. Les séances de la Commission ne sont publiques et les procès-verbaux et documents de l'enquête ne sont rendus publics qu'en vertu d'une décision de la Commission, prise avec l'assentiment des Parties.

ART. 32. Les Parties ayant présenté tous les éclaircissements et preuves, tous les témoins ayant été entendus, le Président prononce la clôture de l'enquête et la Commission s'ajourne pour délibérer et rédiger son rapport.

ART. 33. Le rapport est signé par tous les membres de la Commission.

Si un des membres refuse de signer, mention en est faite; le rapport reste néanmoins valable.

ART. 34. Le rapport de la Commission est lu en séance publique, les agents et les conseils des Parties présents ou dûment appelés.

Un exemplaire du rapport est remis à chaque Partie.

ART. 35. Le rapport de la Commission, limité à la constatation des faits, n'a nullement le caractère d'une sentence arbitrale. Il laisse aux Parties une entière liberté pour la suite à donner à cette constatation.

ART. 36. Chaque Partie supporte ses propres frais et une part égale des frais de la Commission.

#### TITRE IV. — DE L'ARBITRAGE INTERNATIONAL

##### CHAPITRE I<sup>er</sup>. — *De la Justice arbitrale*

ART. 37. L'arbitrage international a pour objet le règlement de litiges entre les Etats par des juges de leur choix et sur la base du respect du droit.

ART. 31. The sittings of the commission are not public, nor the minutes and documents connected with the inquiry published except in virtue of a decision of the commission taken with the consent of the parties.

ART. 32. After the parties have presented all the explanations and evidence, and the witnesses have all been heard, the president declares the inquiry terminated, and the commission adjourns to deliberate and to draw up its report.

ART. 33. The report is signed by all the members of the commission.

If one of the members refuses to sign, the fact is mentioned; but the validity of the report is not affected.

ART. 34. The report of the commission is read at a public sitting, the agents and counsel of the parties being present or duly summoned.

A copy of the report is given to each party.

ART. 35. The report of the commission is limited to a statement of facts, and has in no way the character of an award. It leaves to the parties entire freedom as to the effect to be given to the statement.

ART. 36. Each party pays its own expenses and an equal share of the expenses incurred by the commission.

#### PART IV. — INTERNATIONAL ARBITRATION

##### CHAPTER I. — *The System of Arbitration*

ART. 37. International arbitration has for its object the settlement of disputes between States by judges of their own choice and on the basis of respect for law.

Le recours à l'arbitrage implique l'engagement de se soumettre de bonne foi à la sentence

ART 38 Dans les questions d'ordre juridique, et en premier lieu dans les questions d'interprétation ou d'application des Conventions internationales, l'arbitrage est reconnu par les Puissances contractantes comme le moyen le plus efficace et en même temps le plus équitable de régler les litiges qui n'ont pas été résolus par les voies diplomatiques

En conséquence, il serait désirable que, dans les litiges sur les questions susmentionnées, les Puissances contractantes eussent, le cas échéant, recours à l'arbitrage, en tant que les circonstances le permettraient

ART 39 La Convention d'arbitrage est conclue pour des contestations déjà nées ou pour des contestations éventuelles

Elle peut concerner tout litige ou seulement les litiges d'une catégorie déterminée

ART 40 Indépendamment des Traités généraux ou particuliers qui stipulent actuellement l'obligation du recours à l'arbitrage pour les Puissances contractantes, ces Puissances se réservent de conclure des accords nouveaux, généraux ou particuliers, en vue d'étendre l'arbitrage obligatoire à tous les cas qu'Elles jugeront possible de lui soumettre

## CHAPITRE II — *De la Cour permanente d'arbitrage*

ART 41 Dans le but de faciliter le recours immédiat à l'arbitrage pour les différends internationaux qui n'ont pu être réglés par la voie diplomatique, les Puissances contractantes s'engagent à maintenir, telle qu'elle a été établie par la

Recourse to arbitration implies an engagement to submit in good faith to the award

ART 38 In questions of a legal nature, and especially in the interpretation or application of international conventions, arbitration is recognized by the contracting Powers as the most effective, and, at the same time, the most equitable means of settling disputes which diplomacy has failed to settle

Consequently, it would be desirable that, in disputes about the above mentioned questions, the contracting Powers should, if the case arose, have recourse to arbitration, in so far as circumstances permit

ART 39 The arbitration convention is concluded for questions already existing or for questions which may arise eventually

It may embrace any dispute or only disputes of a certain category

ART 40 Independently of general or private treaties expressly stipulating recourse to arbitration as obligatory on the contracting Powers, the said Powers reserve to themselves the right of concluding new agreements, general or particular, with a view to extending compulsory arbitration to all cases which they may consider it possible to submit to it

## CHAPTER II — *The Permanent Court of Arbitration*

ART 41 With the object of facilitating an immediate recourse to arbitration for international differences, which it has not been possible to settle by diplomacy, the contracting Powers undertake to maintain the Permanent Court of

Première Conférence de la Paix, la Cour permanente d'arbitrage, accessible en tout temps et fonctionnant, sauf stipulation contraire des Parties, conformément aux règles de procédure insérées dans la présente Convention.

ART. 42. La Cour permanente est compétente pour tous les cas d'arbitrage, à moins qu'il n'y ait entente entre les Parties pour l'établissement d'une juridiction spéciale.

ART. 43. La Cour permanente a son siège à La Haye.

Un Bureau international sert de greffe à la Cour; il est l'intermédiaire des communications relatives aux réunions de celle-ci; il a la garde des archives et la gestion de toutes les affaires administratives.

Les Puissances contractantes s'engagent à communiquer au Bureau, aussitôt que possible, une copie certifiée conforme de toute stipulation d'arbitrage intervenue entre Elles et de toute sentence arbitrale Les concernant et rendue par des juridictions spéciales.

Elles s'engagent à communiquer de même au Bureau les lois, règlements et documents constatant éventuellement l'exécution des sentences rendues par la Cour.

ART. 44. Chaque Puissance contractante désigne quatre personnes au plus, d'une compétence reconnue dans les questions de droit international, jouissant de la plus haute considération morale et disposées à accepter les fonctions d'arbitre.

Les personnes ainsi désignées sont inscrites, au titre de Membres de la Cour, sur une liste qui sera notifiée à toutes les Puissances contractantes par les soins du Bureau.

Arbitration, as established by the First Peace Conference, accessible at all times, and operating, unless otherwise stipulated by the parties, in accordance with the rules of procedure inserted in the present Convention.

ART. 42. The Permanent Court is competent for all arbitration cases, unless the parties agree to institute a special tribunal.

ART. 43. The Permanent Court sits at The Hague.

An International Bureau serves as registry for the Court. It is the channel for communications relative to the meetings of the Court; it has charge of the archives and conducts all the administrative business.

The contracting Powers undertake to communicate to the Bureau, as soon as possible, a certified copy of any conditions of arbitration arrived at between them and of any award concerning them delivered by a special tribunal.

They likewise undertake to communicate to the Bureau the laws, regulations, and documents eventually showing the execution of the awards given by the Court.

ART. 44. Each contracting Power selects four persons at the most, of known competency in questions of international law, of the highest moral reputation, and disposed to accept the duties of arbitrator.

The persons thus selected are inscribed, as members of the Court, in a list which shall be notified to all the contracting Powers by the Bureau.

Toute modification à la liste des arbitres est portée, par les soins du Bureau, à la connaissance des Puissances contractantes.

Deux ou plusieurs Puissances peuvent, s'entendre pour la désignation en commun d'un ou de plusieurs Membres.

La même personne peut être désignée par des Puissances différentes.

Les Membres de la Cour sont nommés pour un terme de six ans. Leur mandat peut être renouvelé.

En cas de décès ou de retraite d'un Membre de la Cour, il est pourvu à son remplacement selon le mode fixé pour sa nomination, et pour une nouvelle période de six ans.

ART. 45. Lorsque les Puissances contractantes veulent s'adresser à la Cour permanente pour le règlement d'un différend survenu entre Elles, le choix des arbitres appelés à former le Tribunal compétent pour statuer sur ce différend doit être fait dans la liste générale des Membres de la Cour.

A défaut de constitution du Tribunal arbitral par l'accord des Parties, il est procédé de la manière suivant:

Chaque Partie nomme deux arbitres, dont un seulement peut être son national ou choisi parmi ceux qui ont été désignés par Elle comme Membres de la Cour permanente. Ces arbitres choisissent ensemble un surarbitre.

En cas de partage des voix, le choix du surarbitre est confié à une Puissance tierce, désignée de commun accord par les Parties.

Si l'accord ne s'établit pas à ce sujet, chaque Partie désigne une Puissance différente, et le choix du surarbitre est fait de concert par les Puissances ainsi désignées.

Any alteration in the list of arbitrators is brought by the Bureau to the knowledge of the contracting Powers.

Two or more Powers may agree on the selection in common of one or more members.

The same person can be selected by different Powers.

The members of the Court are appointed for a term of six years. These appointments are renewable.

Should a member of the Court die or resign, the same procedure is followed for filling the vacancy as was followed for appointing him. In this case the appointment is made for a fresh period of six years.

ART. 45. When the contracting Powers wish to have recourse to the Permanent Court for the settlement of a difference which has arisen between them, the arbitrators called upon to form the tribunal with jurisdiction to decide this difference must be chosen from the general list of members of the Court.

Failing the direct agreement of the parties on the composition of the arbitration tribunal, the following course shall be pursued:

Each party appoints two arbitrators, of whom one only can be its national or chosen from among the persons selected by it as members of the Permanent Court. These arbitrators together choose an umpire.

If the votes are equally divided, the choice of the umpire is intrusted to a third Power, selected by the parties by common accord.

If an agreement is not arrived at on this subject each party selects a different Power, and the choice of the umpire is made in

Si, dans un délai de deux mois, ces deux Puissances n'ont pu tomber d'accord, chacune d'Elles présente deux candidats pris sur la liste des Membres de la Cour permanente, en dehors des Membres désignés par les Parties et n'étant les nationaux d'aucune d'Elles. Le sort détermine lequel des candidats ainsi présentés sera le surarbitre.

ART. 46. Dès que le Tribunal est composé, les Parties notifient au Bureau leur décision de s'adresser à la Cour, le texte de leur compromis, et les noms des arbitres.

Le Bureau communique sans délai à chaque arbitre le compromis et les noms des autres Membres du Tribunal.

Le Tribunal se réunit à la date fixée par les Parties. Le Bureau pourvoit à son installation.

Les Membres du Tribunal, dans l'exercice de leurs fonctions et en dehors de leur pays, jouissent des privilèges et immunités diplomatiques.

ART. 47. Le Bureau est autorisé à mettre ses locaux et son organisation à la disposition des Puissances contractantes pour le fonctionnement de toute juridiction spéciale d'arbitrage.

La juridiction de la Cour permanente peut être étendue, dans les conditions prescrites par les Règlements, aux litiges existant entre des Puissances non contractantes ou entre des Puissances contractantes et des Puissances non contractantes, si les Parties sont convenues de recourir à cette juridiction.

ART. 48. Les Puissances contractantes considèrent comme un

concert by the Powers thus selected.

If, within two months' time, these two Powers can not come to an agreement, each of them presents two candidates taken from the list of members of the Permanent Court, exclusive of the members selected by the parties and not being nationals of either of them. Drawing lots determines which of the candidates thus presented shall be umpire.

ART. 46. The tribunal being thus composed, the parties notify to the Bureau their determination to have recourse to the Court, the text of their compromis, and the names of the arbitrators.

The Bureau communicates without delay to each arbitrator the compromis, and the names of the other members of the tribunal.

The tribunal assembles at the date fixed by the parties. The Bureau makes the necessary arrangements for the meeting.

The members of the tribunal, in the exercise of their duties and out of their own country, enjoy diplomatic privileges and immunities.

ART. 47. The Bureau is authorized to place its offices and staff at the disposal of the contracting Powers for the use of any special board of arbitration.

The jurisdiction of the Permanent Court may, within the conditions laid down in the regulations, be extended to disputes between non-contracting Powers or between contracting Powers and non-contracting Powers, if the parties are agreed on recourse to this tribunal.

ART. 48. The contracting Powers consider it their duty, if a

devoir, dans le cas où un conflit aigu menacerait d'éclater entre deux ou plusieurs d'entre Elles, de rappeler à celles-ci que la Cour permanente leur est ouverte.

En conséquence, Elles déclarent que le fait de rappeler aux Parties en conflit les dispositions de la présente Convention, et le conseil donné, dans l'intérêt supérieur de la paix, de s'adresser à la Cour permanente ne peuvent être considérés que comme actes de bons offices.

En case de conflit entre deux Puissances, l'une d'Elles pourra toujours adresser au Bureau international une note contenant sa déclaration qu'Elle serait disposée à soumettre le différend à un arbitrage.

Le Bureau devra porter aussitôt la déclaration à la connaissance de l'autre Puissance.

ART. 49. Le Conseil administratif permanent, composé des Représentants diplomatiques des Puissances contractantes accrédités à La Haye et du Ministre des Affaires Étrangères des Pays-Bas, qui remplit les fonctions de Président, a la direction et le contrôle du Bureau international.

Le Conseil arrête son règlement d'ordre ainsi que tous autres règlements nécessaires.

Il décide toutes les questions administratives qui pourraient surgir touchant le fonctionnement de la Cour.

Il a tout pouvoir quant à la nomination, la suspension ou la révocation des fonctionnaires et employés du Bureau.

Il fixe les traitements et salaires, et contrôle la dépense générale.

La présence de neuf membres dans les réunions dûment convoquées suffit pour permettre au Conseil de délibérer valablement.

serious dispute threatens to break out between two or more of them, to remind these latter that the Permanent Court is open to them.

Consequently, they declare that the fact of reminding the parties at variance of the provisions of the present Convention, and the advice given to them, in the highest interests of peace, to have recourse to the Permanent Court, can only be regarded as friendly actions.

In case of dispute between two Powers, one of them can always address to the International Bureau a note containing a declaration that it would be ready to submit the dispute to arbitration.

The Bureau must at once inform the other Power of the declaration.

ART. 49. The Permanent Administrative Council, composed of the diplomatic representatives of the contracting Powers accredited to The Hague and of the Netherlands Minister for Foreign Affairs, who will act as president, is charged with the direction and control of the International Bureau.

The Council settles its rules of procedure and all other necessary regulations.

It decides all questions of administration which may arise with regard to the operations of the Court.

It has entire control over the appointment, suspension, or dismissal of the officials and employees of the Bureau.

It fixes the payments and salaries, and controls the general expenditure.

At meetings duly summoned the presence of nine members is sufficient to render valid the dis-

Les décisions sont prises à la majorité des voix.

Le Conseil communique sans délai aux Puissances contractantes les règlements adoptés par lui. Il leur présente chaque année un rapport sur les travaux de la Cour, sur le fonctionnement des services administratifs et sur les dépenses. Le rapport contient également un résumé du contenu essentiel des documents communiqués au Bureau par les Puissances en vertu de l'article 43, alinéas 3 et 4.

ART. 50. Les frais du Bureau seront supportés par les Puissances contractantes dans la proportion établie pour le Bureau international de l'Union postale universelle.

Les frais à la charge des Puissances adhérentes seront comptés à partir du jour où leur adhésion produit ses effets.

### CHAPITRE III. — *De la procédure arbitrale*

ART. 51. En vue de favoriser le développement de l'arbitrage, les Puissances contractantes ont arrêté les règles suivantes, qui sont applicables à la procédure arbitrale en tant que les Parties ne sont pas convenues d'autres règles.

ART. 52. Les Puissances qui recourent à l'arbitrage signent un compromis dans lequel sont déterminés l'objet du litige, le délai de nomination des arbitres, la forme, l'ordre et les délais dans lesquels la communication visée par l'article 63 devra être faite, et le montant de la somme que chaque Partie aura à déposer à titre d'avance pour les frais.

Le compromis détermine également, s'il y a lieu, le mode de

cussions of the Council. The decisions are taken by a majority of votes.

The Council communicates to the contracting Powers without delay the regulations adopted by it. It furnishes them with an annual report on the labors of the Court, the working of the administration, and the expenditure. The report likewise contains a résumé of what is important in the documents communicated to the Bureau by the Powers in virtue of Article 43, paragraphs 3 and 4.

ART. 50. The expenses of the Bureau shall be borne by the contracting Powers in the proportion fixed for the International Bureau of the Universal Postal Union.

The expenses to be charged to the adhering Powers shall be reckoned from the date on which their adhesion comes into force.

### CHAPTER III. — *Arbitration Procedure*

ART. 51. With a view to encouraging the development of arbitration, the contracting Powers have agreed on the following rules, which are applicable to arbitration procedure, unless other rules have been agreed on by the parties.

ART. 52. The Powers which have recourse to arbitration sign a compromise, in which the subject of the dispute is clearly defined, the time allowed for appointing arbitrators, the form, order, and time in which the communication referred to in Article 63 must be made, and the amount of the sum which each party must deposit in advance to defray the expenses.

The compromise likewise defines, if there is occasion, the manner of



nomination des arbitres, tous pouvoirs spéciaux éventuels du Tribunal, son siège, la langue dont il fera usage et celles dont l'emploi sera autorisé devant lui, et généralement toutes les conditions dont les Parties sont convenues.

appointing arbitrators, any special powers which may eventually belong to the tribunal, where it shall meet, the language it shall use, and the languages the employment of which shall be authorized before it, and, generally speaking, all the conditions on which the parties are agreed.

ART. 53. La Cour permanente est compétente pour l'établissement du compromis, si les Parties sont d'accord pour s'en remettre à elle.

ART. 53. The Permanent Court is competent to settle the compromise, if the parties are agreed to have recourse to it for the purpose.

Elle est également compétente, même si la demande est faite seulement par l'une des Parties, après qu'un accord par la voie diplomatique a été vainement essayé, quand il s'agit :

It is similarly competent, even if the request is only made by one of the parties, when all attempts to reach an understanding through the diplomatic channel have failed, in the case of —

1°. D'un différend rentrant dans un traité d'arbitrage général conclu ou renouvelé après la mise en vigueur de cette Convention et qui prévoit pour chaque différend un compromis et n'exclut pour l'établissement de ce dernier, ni explicitement ni implicitement, la compétence de la Cour. Toutefois, le recours à la Cour n'a pas lieu si l'autre Partie déclare qu'à son avis le différend n'appartient pas à la catégorie des différends à soumettre à un arbitrage obligatoire, à moins que le traité d'arbitrage ne confère au Tribunal arbitral le pouvoir de décider cette question préalable;

(1) A dispute covered by a general treaty of arbitration concluded or renewed after the present Convention has come into force, and providing for a compromise in all disputes and not either explicitly or implicitly excluding the settlement of the compromise from the competence of the Court. Recourse can not, however, be had to the Court if the other party declares that in its opinion the dispute does not belong to the category of disputes which can be submitted to compulsory arbitration, unless the treaty of arbitration confers upon the arbitration tribunal the power of deciding this preliminary question.

2°. D'un différend provenant de dettes contractuelles réclamées à une Puissance par une autre Puissance comme dues à ses nationaux, et pour la solution duquel l'offre d'arbitrage a été acceptée. Cette disposition n'est pas applicable si l'acceptation a été subordonnée à la condition que le compromis soit établi selon un autre mode.

(2) A dispute arising from contract debts claimed from one Power by another Power as due to its nationals, and for the settlement of which the offer of arbitration has been accepted. This arrangement is not applicable if acceptance is subject to the condition that the compromise should be settled in some other way.

**ART. 54.** Dans les cas prévus par l'article précédent, le compromis sera établi par une Commission composée de cinq membres désignés de la manière prévue à l'article 45, alinéas 3 à 6.

Le cinquième membre est de droit Président de la Commission.

**ART. 55.** Les fonctions arbitrales peuvent être conférées à un arbitre unique ou à plusieurs arbitres désignés par les Parties à leur gré, ou choisis par Elles parmi les Membres de la Cour permanente d'arbitrage établie par la présente Convention.

A défaut de constitution du Tribunal par l'accord des Parties, il est procédé de la manière indiquée à l'article 45, alinéas 3 à 6.

**ART. 56.** Lorsqu'un Souverain ou un Chef d'État est choisi pour arbitre, la procédure arbitrale est réglée par Lui.

**ART. 57.** Le surarbitre est de droit Président du Tribunal.

Lorsque le Tribunal ne comprend pas de surarbitre, il nomme lui-même son Président.

**ART. 58.** En cas d'établissement du compromis par une Commission, telle qu'elle est visée à l'article 54, et sauf stipulation contraire, la Commission elle-même formera le Tribunal d'arbitrage.

**ART. 59.** En cas de décès, de démission ou d'empêchement, pour quelque cause que ce soit, de l'un des arbitres, il est pourvu à son remplacement selon le mode fixé pour sa nomination.

**ART. 60.** A défaut de désignation par les Parties, le Tribunal siège à La Haye.

**ART. 54.** In the cases contemplated in the preceding article, the compromis shall be settled by a commission consisting of five members selected in the manner arranged for in Article 45, paragraphs 3 to 6.

The fifth member is president of the commission ex officio.

**ART. 55.** The duties of arbitrator may be conferred on one arbitrator alone or on several arbitrators selected by the parties as they please, or chosen by them from the members of the Permanent Court of Arbitration established by the present Convention.

Failing the constitution of the tribunal by direct agreement between the parties, the course referred to in Article 45, paragraphs 3 to 6, is followed.

**ART. 56.** When a sovereign or the chief of a State is chosen as arbitrator, the arbitration procedure is settled by him.

**ART. 57.** The umpire is president of the tribunal ex officio.

When the tribunal does not include an umpire, it appoints its own president.

**ART. 58.** When the compromis is settled by a commission, as contemplated in Article 54, and in the absence of an agreement to the contrary, the commission itself shall form the arbitration tribunal.

**ART. 59.** Should one of the arbitrators either die, retire, or be unable for any reason whatever to discharge his functions, the same procedure is followed for filling the vacancy as was followed for appointing him.

**ART. 60.** The tribunal sits at The Hague, unless some other place is selected by the parties.

Le Tribunal ne peut siéger sur le territoire d'une tierce Puissance qu'avec l'assentiment de celle-ci.

Le siège une fois fixé ne peut être changé par le Tribunal qu'avec l'assentiment des Parties.

The tribunal can only sit in the territory of a third Power with the latter's consent.

The place of meeting once fixed can not be altered by the tribunal, except with the consent of the parties.

ART. 61. Si le compromis n'a pas déterminé les langues à employer, il en est décidé par le Tribunal.

ART. 61. If the question as to what languages are to be used has not been settled by the compromis, it shall be decided by the tribunal.

ART. 62. Les Parties ont le droit de nommer auprès du Tribunal des agents spéciaux, avec la mission de servir d'intermédiaires entre Elles et le Tribunal.

ART. 62. The parties are entitled to appoint special agents to attend the tribunal to act as intermediaries between themselves and the tribunal.

Elles sont, en outre, autorisées à charger de la défense de Leurs droits et intérêts devant le Tribunal, des conseils ou avocats nommés par Elles à cet effet.

They are further authorized to retain for the defence of their rights and interests before the tribunal counsel or advocates appointed by themselves for this purpose.

Les Membres de la Cour permanente ne peuvent exercer les fonctions d'agents, conseils ou avocats, qu'en faveur de la Puissance qui les a nommés Membres de la Cour.

The members of the Permanent Court may not act as agents, counsel, or advocates except on behalf of the Power which appointed them members of the Court.

ART. 63. La procédure arbitrale comprend en règle générale deux phases distinctes: l'instruction écrite et les débats.

ART. 63. As a general rule, arbitration procedure comprises two distinct phases: pleadings and oral discussions.

L'instruction écrite consiste dans la communication faite par les agents respectifs, aux Membres du Tribunal et à la Partie adverse, des mémoires, des contre-mémoires et, au besoin, des répliques; les Parties y joignent toutes pièces et documents invoqués dans la cause. Cette communication aura lieu, directement ou par l'intermédiaire du Bureau international, dans l'ordre et dans les délais déterminés par le compromis.

The pleadings consist in the communication by the respective agents to the members of the tribunal and the opposite party of cases, counter-cases, and, if necessary, of replies, the parties annex thereto all papers and documents called for in the case. This communication shall be made either directly or through the intermediary of the International Bureau, in the order and within the time fixed by the compromis.

Les délais fixés par le compromis pourront être prolongés de commun accord par les Parties, ou par le

The time fixed by the compromis may be extended by mutual agreement by the parties, or by

Tribunal quand il le juge nécessaire pour arriver à une décision juste.

Les débats consistent dans le développement oral des moyens des Parties devant le Tribunal.

ART. 64. Toute pièce produite par l'une des Parties doit être communiquée, en copie certifiée conforme, à l'autre Partie.

ART. 65. A moins de circonstances spéciales, le Tribunal ne se réunit qu'après la clôture de l'instruction.

ART. 66. Les débats sont dirigés par le Président.

Ils ne sont publics qu'en vertu d'une décision du Tribunal, prise avec l'assentiment des Parties.

Ils sont consignés dans des procès-verbaux rédigés par des secrétaires que nomme le Président. Ces procès-verbaux sont signés par le Président et par un des secrétaires; ils ont seuls caractère authentique.

ART. 67. L'instruction étant close, le Tribunal a le droit d'écarter du débat tous actes ou documents nouveaux qu'une des Parties voudrait lui soumettre sans le consentement de l'autre.

ART. 68. Le Tribunal demeure libre de prendre en considération les actes ou documents nouveaux sur lesquels les agents ou conseils des Parties appelleraient son attention.

En ce cas, le Tribunal a le droit de requérir la production de ces actes ou documents, sauf l'obligation d'en donner connaissance à la Partie adverse.

ART. 69. Le Tribunal peut, en outre, requérir des agents des Parties la production de tous actes

the tribunal when the latter considers it necessary for the purpose of reaching a just decision.

The discussions consist in the oral development before the tribunal of the arguments of the parties.

ART. 64. A certified copy of every document produced by one party must be communicated to the other party.

ART. 65. Unless special circumstances arise, the tribunal does not meet until the pleadings are closed.

ART. 66. The discussions are under the control of the president.

They are only public if it be so decided by the tribunal, with the assent of the parties.

They are recorded in minutes drawn up by the secretaries appointed by the president. These minutes are signed by the president and by one of the secretaries and alone have an authentic character.

ART. 67. After the close of the pleadings, the tribunal is entitled to refuse discussion of all new papers or documents which one of the parties may wish to submit to it without the consent of the other party.

ART. 68. The tribunal is free to take into consideration new papers or documents to which its attention may be drawn by the agents or counsel of the parties.

In this case, the tribunal has the right to require the production of these papers or documents, but is obliged to make them known to the opposite party.

ART. 69. The tribunal can, besides, require from the agents of the parties the production of all

et demander toutes explications nécessaires. En cas de refus, le Tribunal en prend acte.

ART. 70. Les agents et les conseils des Parties sont autorisés à présenter oralement au Tribunal tous les moyens qu'ils jugent utiles à la défense de leur cause.

ART. 71. Ils ont le droit de soulever des exceptions et des incidents. Les décisions du Tribunal sur ces points sont définitives et ne peuvent donner lieu à aucune discussion ultérieure.

ART. 72. Les membres du Tribunal ont le droit de poser des questions aux agents et aux conseils des Parties et de leur demander des éclaircissements sur les points douteux.

Ni les questions posées, ni les observations faites par les membres du Tribunal pendant le cours des débats ne peuvent être regardées comme l'expression des opinions du Tribunal en général ou de ses membres en particulier.

ART. 73. Le Tribunal est autorisé à déterminer sa compétence en interprétant le compromis ainsi que les autres actes et documents qui peuvent être invoqués dans la matière, et en appliquant les principes du droit.

ART. 74. Le Tribunal a le droit de rendre des ordonnances de procédure pour la direction du procès, de déterminer les formes, l'ordre et les délais dans lesquels chaque Partie devra prendre ses conclusions finales, et de procéder à toutes les formalités que comporte l'administration des preuves.

ART. 75. Les Parties s'engagent à fournir au Tribunal, dans la plus large mesure qu'Elles jugeront

papers, and can demand all necessary explanations. In case of refusal the tribunal takes note of it.

ART. 70. The agents and the counsel of the parties are authorized to present orally to the tribunal all the arguments they may consider expedient in defense of their case.

ART. 71. They are entitled to raise objections and points. The decisions of the tribunal on these points are final and can not form the subject of any subsequent discussion.

ART. 72. The members of the tribunal are entitled to put questions to the agents and counsel of the parties, and to ask them for explanations on doubtful points.

Neither the questions put, nor the remarks made by members of the tribunal in the course of the discussions, can be regarded as an expression of opinion by the tribunal in general or by its members in particular.

ART. 73. The tribunal is authorized to declare its competence in interpreting the compromis, as well as the other papers and documents which may be invoked, and in applying the principles of law.

ART. 74. The tribunal is entitled to issue rules of procedure for the conduct of the case, to decide the forms, order, and time in which each party must conclude its arguments, and to arrange all the formalities required for dealing with the evidence.

ART. 75. The parties undertake to supply the tribunal, as fully as they consider possible, with all the

possible, tous les moyens nécessaires pour la décision du litige.

ART. 76. Pour toutes les notifications que le Tribunal aurait à faire sur le territoire d'une tierce Puissance contractante, le Tribunal s'adressera directement au Gouvernement de cette Puissance. Il en sera de même s'il s'agit de faire procéder sur place à l'établissement de tous moyens de preuve.

Les requêtes adressées à cet effet seront exécutées suivant les moyens dont la Puissance requise dispose d'après sa législation intérieure. Elles ne peuvent être refusées que si cette Puissance les juge de nature à porter atteinte à sa souveraineté ou à sa sécurité.

Le Tribunal aura aussi toujours la faculté de recourir à l'intermédiaire de la Puissance sur le territoire de laquelle il a son siège.

ART. 77. Les agents et les conseils des Parties ayant présenté tous les éclaircissements et preuves à l'appui de leur cause, le Président prononce la clôture des débats.

ART. 78. Les délibérations du Tribunal ont lieu à huis clos et restent secrètes.

Toute décision est prise à la majorité de ses membres.

ART. 79. La sentence arbitrale est motivée. Elle mentionne les noms des arbitres; elle est signée par le Président et par le greffier ou le secrétaire faisant fonctions de greffier.

ART. 80. La sentence est lue en séance publique, les agents et les conseils des Parties présents ou dûment appelés.

ART. 81. La sentence, dûment prononcée et notifiée aux agents

information required for deciding the case.

ART. 76. For all notices which the tribunal has to serve in the territory of a third contracting Power, the tribunal shall apply direct to the Government of that Power. The same rule applies in the case of steps being taken to procure evidence on the spot.

The requests for this purpose are to be executed as far as the means at the disposal of the Power applied to under its municipal law allow. They can not be rejected unless the Power in question considers them calculated to impair its own sovereign rights or its safety.

The Court will equally be always entitled to act through the Power on whose territory it sits.

ART. 77. When the agents and counsel of the parties have submitted all the explanations and evidence in support of their case the president shall declare the discussion closed.

ART. 78. The tribunal considers its decisions in private and the proceedings remain secret.

All questions are decided by a majority of the members of the tribunal.

ART. 79. The award must give the reasons on which it is based. It contains the names of the arbitrators; it is signed by the president and registrar or by the secretary acting as registrar.

ART. 80. The award is read out in public sitting, the agents and counsel of the parties being present or duly summoned to attend.

ART. 81. The award, duly pronounced and notified to the agents

de Parties, décide définitivement et sans appel la contestation.

ART. 82. Tout différend qui pourrait surgir entre les Parties, concernant l'interprétation et l'exécution de la sentence, sera, sauf stipulation contraire, soumis au jugement du Tribunal qui l'a rendu.

ART. 83. Les Parties peuvent se réserver dans le compromis de demander la révision de la sentence arbitrale.

Dans ce cas, et sauf stipulation contraire, la demande doit être adressée au Tribunal qui a rendu la sentence. Elle ne peut être motivée que par la découverte d'un fait nouveau qui eût été de nature à exercer une influence décisive sur la sentence et qui, lors de la clôture des débats, était inconnu du Tribunal lui-même et de la Partie qui a demandé la révision.

La procédure de révision ne peut être ouverte que par une décision du Tribunal constatant expressément l'existence du fait nouveau, lui reconnaissant les caractères prévus par le paragraphe précédent et déclarant à ce titre la demande recevable.

Le compromis détermine le délai dans lequel la demande de révision doit être formée.

ART. 84. La sentence arbitrale n'est obligatoire que pour les Parties en litige.

Lorsqu'il s'agit de l'interprétation d'une Convention à laquelle ont participé d'autres Puissances que les Parties en litige, celles-ci avertissent en temps utile toutes les Puissances signataires. Chacune de ces Puissances a le droit d'intervenir au procès. Si une ou plusieurs d'entre Elles ont profité

of the parties, settles the dispute definitively and without appeal.

ART. 82. Any dispute arising between the parties as to the interpretation and execution of the award shall, in the absence of an agreement to the contrary, be submitted to the tribunal which pronounced it.

ART. 83. The parties can reserve in the compromis the right to demand the revision of the award.

In this case and unless there be an agreement to the contrary, the demand must be addressed to the tribunal which pronounced the award. It can only be made on the ground of the discovery of some new fact calculated to exercise a decisive influence upon the award and which was unknown to the tribunal and to the party which demanded the revision at the time the discussion was closed.

Proceedings for revision can only be instituted by a decision of the tribunal expressly recording the existence of the new fact, recognizing in it the character described in the preceding paragraph, and declaring the demand admissible on this ground.

The compromis fixes the period within which the demand for revision must be made.

ART. 84. The award is not binding except on the parties in dispute.

When it concerns the interpretation of a Convention to which Powers other than those in dispute are parties, they shall inform all the signatory Powers in good time. Each of these Powers is entitled to intervene in the case. If one or more avail themselves of this right, the interpretation

de cette faculté, l'interprétation contenue dans la sentence est également obligatoire à leur égard.

ART. 85. Chaque Partie supporte ses propres frais et une part égale des frais du Tribunal.

contained in the award is equally binding on them.

ART. 85. Each party pays its own expenses and an equal share of the expenses of the tribunal.

#### CHAPITRE IV. — *De la procédure sommaire d'arbitrage*

ART. 86. En vue de faciliter le fonctionnement de la justice arbitrale, lorsqu'il s'agit de litiges de nature à comporter une procédure sommaire, les Puissances contractantes arrêtent les règles ci-après, qui seront suivies en l'absence de stipulations différentes, et sous réserve, le cas échéant, de l'application des dispositions du Chapitre III qui ne seraient pas contraires.

ART. 87. Chacune des Parties en litige nomme un arbitre. Les deux arbitres ainsi désignés choisissent un surarbitre. S'ils ne tombent pas d'accord à ce sujet, chacun présente deux candidats pris sur une liste générale des Membres de la Cour permanente, en dehors des Membres indiqués par chacune des Parties Elles-mêmes et n'étant les nationaux d'aucune d'Elles; le sort détermine lequel des candidats ainsi présentés sera le surarbitre.

Le surarbitre préside le Tribunal, qui rend ses décisions à la majorité des voix.

ARTICLE 88. A défaut d'accord préalable, le Tribunal fixe, dès qu'il est constitué, le délai dans lequel les deux Parties devront lui soumettre leurs mémoires respectifs.

ART. 89. Chaque Partie est représentée devant le Tribunal par un agent qui sert d'intermédiaire entre le Tribunal et le Gouvernement qui l'a désigné.

#### CHAPTER IV. — *Arbitration by Summary Procedure*

ART. 86. With a view to facilitating the working of the system of arbitration in disputes admitting of a summary procedure, the contracting Powers adopt the following rules, which shall be observed in the absence of other arrangements and subject to the reservation that the provisions of Chapter III apply so far as may be.

ART. 87. Each of the parties in dispute appoints an arbitrator. The two arbitrators thus selected choose an umpire. If they do not agree on this point, each of them proposes two candidates taken from the general list of the members of the Permanent Court exclusive of the members appointed by either of the parties and not being nationals of either of them; which of the candidates thus proposed shall be the umpire is determined by lot.

The umpire presides over the tribunal, which gives its decisions by a majority of votes.

ART. 88. In the absence of any previous agreement the tribunal, as soon as it is formed, settles the time within which the two parties must submit their respective cases to it.

ART. 89. Each party is represented before the tribunal by an agent, who serves as intermediary between the tribunal and the Government who appointed him.



ART. 90. La procédure a lieu exclusivement par écrit. Toutefois, chaque Partie a le droit de demander la comparution de témoins et d'experts. Le Tribunal a, de son côté, la faculté de demander des explications orales aux agents des deux Parties, ainsi qu'aux experts et aux témoins dont il juge la comparution utile.

ART. 90. The proceedings are conducted exclusively in writing. Each party, however, is entitled to ask that witnesses and experts should be called. The tribunal has, for its part, the right to demand oral explanations from the agents of the two parties, as well as from the experts and witnesses whose appearance in Court it may consider useful.

#### TITRE V. — DISPOSITIONS FINALES

ART. 91. La présente Convention dûment ratifiée remplacera, dans les rapports entre les Puissances contractantes, la Convention pour le règlement pacifique des conflits internationaux du 29 juillet 1899.

ART. 92. La présente Convention sera ratifiée aussitôt que possible.

Les ratifications seront déposées à La Haye.

Le premier dépôt de ratifications sera constaté par un procès-verbal signé par les représentants des Puissances qui y prennent part et par le Ministre des Affaires Étrangères des Pays-Bas.

Les dépôts ultérieurs de ratifications se feront au moyen d'une notification écrite, adressée au Gouvernement des Pays-Bas et accompagnée de l'instrument de ratification.

Copie certifiée conforme du procès-verbal relatif au premier dépôt de ratifications, des notifications mentionnées à l'alinéa précédent, ainsi que des instruments de ratification, sera immédiatement remise, par les soins du Gouvernement des Pays-Bas et par la voie diplomatique, aux Puissances conviées à la Deuxième Conférence de la Paix, ainsi qu'aux autres Puissances qui auront adhéré à la

#### PART V. — FINAL PROVISIONS

ART. 91. The present Convention, duly ratified, shall replace, as between the contracting Powers, the Convention for the pacific settlement of international disputes of the 29th July, 1899.

ART. 92. The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a procès-verbal signed by the representatives of the Powers which take part therein and by the Netherland Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification, addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the procès-verbal relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, and of the instruments of ratification, shall be immediately sent by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to those Powers which have adhered to the Con-

Convention. Dans les cas visés par l'alinéa précédent, ledit Gouvernement Leur fera connaître en même temps la date à laquelle il a reçu la notification.

ART. 93. Les Puissances non signataires qui ont été conviées à la Deuxième Conférence de la Paix pourront adhérer à la présente Convention.

La Puissance qui désire adhérer notifie par écrit son intention au Gouvernement des Pays-Bas en lui transmettant l'acte d'adhésion qui sera déposé dans les archives dudit Gouvernement.

Ce Gouvernement transmettra immédiatement à toutes les autres Puissances conviées à la Deuxième Conférence de la Paix copie certifiée conforme de la notification ainsi que de l'acte d'adhésion, en indiquant la date à laquelle il a reçu la notification.

ART. 94. Les conditions auxquelles les Puissances qui n'ont pas été conviées à la Deuxième Conférence de la Paix pourront adhérer à la présente Convention, formeront l'objet d'une entente ultérieure entre les Puissances contractantes.

ART. 95. La présente Convention produira effet, pour les Puissances qui auront participé au premier dépôt de ratifications, soixante jours après la date du procès-verbal de ce dépôt et, pour les Puissances qui ratifieront ultérieurement ou qui adhéreront, soixante jours après que la notification de leur ratification ou de leur adhésion aura été reçue par le Gouvernement des Pays-Bas.

ART. 96. S'il arrivait qu'une des Puissances contractantes voulût dénoncer la présente Convention, la dénonciation sera notifiée par écrit

vention. In the cases contemplated in the preceding paragraph, the said Government shall at the same time inform the Powers of the date on which it received the notification.

ART. 93. Non-signatory Powers which have been invited to the Second Peace Conference may adhere to the present Convention.

The Power which desires to adhere notifies its intention in writing to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

This Government shall immediately forward to all the other Powers invited to the Second Peace Conference a duly certified copy of the notification as well as of the act of adhesion, mentioning the date on which it received the notification.

ART. 94. The conditions on which the Powers which have not been invited to the Second Peace Conference may adhere to the present Convention shall form the subject of a subsequent agreement between the contracting Powers.

ART. 95. The present Convention shall take effect, in the case of the Powers which were not a party to the first deposit of ratifications, sixty days after the date of the procès-verbal of this deposit, and, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification or of their adhesion has been received by the Netherland Government.

ART. 96. In the event of one of the contracting Powers wishing to denounce the present Convention, the denunciation shall be notified

au Gouvernement des Pays-Bas qui communiquera immédiatement copie certifiée conforme de la notification à toutes les autres Puissances en leur faisant savoir la date à laquelle il l'a reçue.

La dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée et un an après que la notification en sera parvenue au Gouvernement des Pays-Bas.

ART. 97. Un registre tenu par le Ministère des Affaires Étrangères des Pays-Bas indiquera la date du dépôt de ratifications effectué en vertu de l'article 92, alinéas 3 et 4, ainsi que la date à laquelle auront été reçues les notifications d'adhésion (article 93, alinéa 2) ou de dénonciation (article 96, alinéa 1).

Chaque Puissance contractante est admise à prendre connaissance de ce registre et à en demander des extraits certifiés conformes.

En foi de quoi, les Plénipotentiaires ont revêtu la présente Convention de leurs signatures.

Fait à La Haye, le 18 octobre 1907, en un seul exemplaire qui restera déposé dans les archives du Gouvernement des Pays-Bas et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux Puissances contractantes.

[Suivent les signatures.]

in writing to the Netherland Government, which shall immediately communicate a duly certified copy of the notification to all the other Powers informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherland Government.

ART. 97. A register kept by the Netherland Minister for Foreign Affairs shall give the date of the deposit of ratifications effected in virtue of Article 92, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article 93, paragraph 2) or of denunciation (Article 96, paragraph 1) have been received.

Each contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the plenipotentiaries have appended their signatures to the present Convention.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the contracting Powers.

[Here follow signatures.]

## ANNEX III

THE PROTOCOL FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL  
DISPUTES, OPENED FOR SIGNATURE AT GENEVA  
ON OCTOBER 2, 1924

(Geneva Protocol, adopted by the Fifth Assembly of  
the League of Nations)

Original text<sup>1</sup> from League of Nations, *Arbitration, Security and Reduction of Armaments* (C 582 M 199 1924 IX, 23)

Animated by the firm desire to ensure the maintenance of general peace and the security of nations whose existence, independence or territories may be threatened,

Recognising the solidarity of the members of the international community,

Asserting that a war of aggression constitutes a violation of this solidarity and an international crime,

Desirous of facilitating the complete application of the system provided in the Covenant of the League of Nations for the pacific settlement of disputes between States and of ensuring the repression of international crimes, and

For the purpose of realising, as contemplated by Article 8 of the Covenant, the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations,

The Undersigned, duly authorised to that effect, agree as follows

ARTICLE 1 The signatory States undertake to make every effort in their power to secure the introduction into the Covenant of amendments on the lines of the provisions contained in the following articles

They agree that, as between themselves, these provisions shall be binding as from the coming into force of the present Protocol and that, so far as they are concerned, the Assembly and the Council of the League of Nations shall thenceforth have power to exercise all the rights and perform all the duties conferred upon them by the Protocol

ART 2 The signatory States agree in no case to resort to war either with one another or against a State which, if the occasion arises, accepts all the obligations hereinafter set out, except in case of resistance to acts of aggression or when acting in agreement with the Council or the Assembly of the League of Nations in accordance with the provisions of the Covenant and of the present Protocol

ART 3 The signatory States undertake to recognise as compulsory, *ipso facto* and without special agreement, the jurisdiction of the Permanent Court of International Justice in the cases covered by paragraph 2 of Article 36 of the Statute of the Court, but without prejudice to the right of any State, when acceding to the special protocol provided for in the said Article and opened for signature on December 16th, 1920, to make reservations compatible with the said clause

<sup>1</sup> The French text is also authentic

Accession to this special protocol, opened for signature on December 16th, 1920, must be given within the month following the coming into force of the present Protocol.

States which accede to the present Protocol after its coming into force must carry out the above obligation within the month following their accession.

ART. 4. With a view to render more complete the provisions of paragraphs 4, 5, 6, and 7 of Article 15 of the Covenant, the signatory States agree to comply with the following procedure:

1. If the dispute submitted to the Council is not settled by it as provided in paragraph 3 of the said Article 15, the Council shall endeavour to persuade the parties to submit the dispute to judicial settlement or arbitration.

2. (a) If the parties cannot agree to do so, there shall, at the request of at least one of the parties, be constituted a Committee of Arbitrators. The Committee shall so far as possible be constituted by agreement between the parties.

(b) If within the period fixed by the Council the parties have failed to agree, in whole or in part, upon the number, the names and the powers of the arbitrators and upon the procedure, the Council shall settle the points remaining in suspense. It shall with the utmost possible despatch select in consultation with the parties the arbitrators and their President from among persons who by their nationality, their personal character and their experience, appear to it to furnish the highest guarantees of competence and impartiality.

(c) After the claims of the parties have been formulated, the Committee of Arbitrators, on the request of any party, shall through the medium of the Council request an advisory opinion upon any points of law in dispute from the Permanent Court of International Justice, which in such case shall meet with the utmost possible despatch.

3. If none of the parties asks for arbitration, the Council shall again take the dispute under consideration. If the Council reaches a report which is unanimously agreed to by the members thereof other than the representatives of any of the parties to the dispute, the signatory States agree to comply with the recommendations therein.

4. If the Council fails to reach a report which is concurred in by all its members, other than the representatives of any of the parties to the dispute, it shall submit the dispute to arbitration. It shall itself determine the composition, the powers and the procedure of the Committee of Arbitrators and, in the choice of the arbitrators, shall bear in mind the guarantees of competence and impartiality referred to in paragraph 2 (b) above.

5. In no case may a solution, upon which there has already been a unanimous recommendation of the Council accepted by one of the parties concerned, be again called in question.

6. The signatory States undertake that they will carry out in full good faith any judicial sentence or arbitral award that may be rendered and that they will comply, as provided in paragraph 3 above, with the solutions recommended by the Council. In the event of a State failing to

carry out the above undertakings, the Council shall exert all its influence to secure compliance therewith. If it fails therein, it shall propose what steps should be taken to give effect thereto, in accordance with the provision contained at the end of Article 13 of the Covenant. Should a State in disregard of the above undertakings resort to war, the sanctions provided for by Article 16 of the Covenant, interpreted in the manner indicated in the present Protocol, shall immediately become applicable to it.

7. The provisions of the present article do not apply to the settlement of disputes which arise as the result of measures of war taken by one or more signatory States in agreement with the Council or the Assembly.

ART. 5. The provisions of paragraph 8 of Article 15 of the Covenant shall continue to apply in proceedings before the Council.

If in the course of an arbitration, such as is contemplated in Article 4 above, one of the parties claims that the dispute, or part thereof, arises out of a matter which by international law is solely within the domestic jurisdiction of that party, the arbitrators shall on this point take the advice of the Permanent Court of International Justice through the medium of the Council. The opinion of the Court shall be binding upon the arbitrators, who, if the opinion is affirmative, shall confine themselves to so declaring in their award.

If the question is held by the Court or by the Council to be a matter solely within the domestic jurisdiction of the State, this decision shall not prevent consideration of the situation by the Council or by the Assembly under Article 11 of the Covenant.

ART. 6. If in accordance with paragraph 9 of Article 15 of the Covenant a dispute is referred to the Assembly, that body shall have for the settlement of the dispute all the powers conferred upon the Council as to endeavouring to reconcile the parties in the manner laid down in paragraphs 1, 2 and 3 of Article 15 of the Covenant and in paragraph 1 of Article 4 above.

Should the Assembly fail to achieve an amicable settlement:

If one of the parties asks for arbitration, the Council shall proceed to constitute the Committee of Arbitrators in the manner provided in subparagraphs (a), (b) and (c) of paragraph 2 of Article 4 above.

If no party asks for arbitration, the Assembly shall again take the dispute under consideration and shall have in this connection the same powers as the Council. Recommendations embodied in a report of the Assembly, provided that it secures the measure of support stipulated at the end of paragraph 10 of Article 15 of the Covenant, shall have the same value and effect, as regards all matters dealt with in the present Protocol, as recommendations embodied in a report of the Council adopted as provided in paragraph 3 of Article 4 above.

If the necessary majority cannot be obtained, the dispute shall be submitted to arbitration and the Council shall determine the composition, the powers and the procedure of the Committee of Arbitrators as laid down in paragraph 4 of Article 4 above.

ART. 7. In the event of a dispute arising between two or more signatory States, these States agree that they will not, either before the dispute is submitted to proceedings for pacific settlement or during such pro-

ceedings, make any increase of their armaments or effectives which might modify the position established by the Conference for the Reduction of Armaments provided for by Article 17 of the present Protocol, nor will they take any measure of military, naval, air, industrial or economic mobilisation, nor, in general, any action of a nature likely to extend the dispute or render it more acute.

It shall be the duty of the Council, in accordance with the provisions of Article 11 of the Covenant, to take under consideration any complaint as to infraction of the above undertakings which is made to it by one or more of the States parties to the dispute. Should the Council be of opinion that the complaint requires investigation, it shall, if it deems it expedient, arrange for enquiries and investigations in one or more of the countries concerned. Such enquiries and investigations shall be carried out with the utmost possible despatch and the signatory States undertake to afford every facility for carrying them out.

The sole object of measures taken by the Council as above provided is to facilitate the pacific settlement of disputes and they shall in no way prejudice the actual settlement.

If the result of such enquiries and investigations is to establish an infraction of the provisions of the first paragraph of the present Article, it shall be the duty of the Council to summon the State or States guilty of the infraction to put an end thereto. Should the State or States in question fail to comply with such summons, the Council shall declare them to be guilty of a violation of the Covenant or of the present Protocol, and shall decide upon the measures to be taken with a view to end as soon as possible a situation of a nature to threaten the peace of the world.

For the purposes of the present Article decisions of the Council may be taken by a two-thirds majority.

ART. 8. The signatory States undertake to abstain from any act which might constitute a threat of aggression against another State.

If one of the signatory States is of opinion that another State is making preparations for war, it shall have the right to bring the matter to the notice of the Council.

The Council, if it ascertains that the facts are as alleged, shall proceed as provided in paragraphs 2, 4, and 5 of Article 7.

ART. 9. The existence of demilitarised zones being calculated to prevent aggression and to facilitate a definite finding of the nature provided for in Article 10 below, the establishment of such zones between States mutually consenting thereto is recommended as a means of avoiding violations of the present Protocol.

The demilitarised zones already existing under the terms of certain treaties or conventions, or which may be established in future between States mutually consenting thereto, may at the request and at the expense of one or more of the conterminous States, be placed under a temporary or permanent system of supervision to be organised by the Council.

ART. 10. Every State which resorts to war in violation of the undertakings contained in the Covenant or in the present Protocol is an aggressor. Violation of the rules laid down for a demilitarised zone shall be held equivalent to resort to war.

In the event of hostilities having broken out, any State shall be presumed to be an aggressor, unless a decision of the Council, which must be taken unanimously, shall otherwise declare

1 If it has refused to submit the dispute to the procedure of pacific settlement provided by Articles 13 and 15 of the Covenant as amplified by the present Protocol, or to comply with a judicial sentence or arbitral award or with a unanimous recommendation of the Council, or has disregarded a unanimous report of the Council, a judicial sentence, or an arbitral award recognising that the dispute between it and the other belligerent State arises out of a matter which by international law is solely within the domestic jurisdiction of the latter State, nevertheless, in the last case the State shall only be presumed to be an aggressor if it has not previously submitted the question to the Council or the Assembly, in accordance with Article 11 of the Covenant

2 If it has violated provisional measures enjoined by the Council for the period while the proceedings are in progress as contemplated by Article 7 of the present Protocol

Apart from the cases dealt with in paragraphs 1 and 2 of the present Article, if the Council does not at once succeed in determining the aggressor, it shall be bound to enjoin upon the belligerents an armistice, and shall fix the terms, acting, if need be, by a two thirds majority and shall supervise its execution

Any belligerent which has refused to accept the armistice or has violated its terms shall be deemed an aggressor

The Council shall call upon the signatory States to apply forthwith against the aggressor the sanctions provided by Article 11 of the present Protocol, and any signatory State thus called upon shall thereupon be entitled to exercise the rights of a belligerent

ART 11 As soon as the Council has called upon the signatory States to apply sanctions, as provided in the last paragraph of Article 10 of the present Protocol, the obligations of the said States in regard to the sanctions of all kinds mentioned in paragraphs 1 and 2 of Article 16 of the Covenant, will immediately become operative in order that such sanctions may forthwith be employed against the aggressor

Those obligations shall be interpreted as obliging each of the signatory States to co operate loyally, and effectively in support of the Covenant of the League of Nations, and in resistance to any act of aggression, in the degree which its geographical position and its particular situation as regards armaments allow

In accordance with paragraph 3 of Article 16 of the Covenant the signatory States give a joint and several undertaking to come to the assistance of the State attacked or threatened, and to give each other mutual support by means of facilities and reciprocal exchanges as regards the provision of raw materials and supplies of every kind, openings of credits, transport and transit, and for this purpose to take all measures in their power to preserve the safety of communications by land and by sea of the attacked or threatened State

If both parties to the dispute are aggressors within the meaning of Article 10, the economic and financial sanctions shall be applied to both of them.



ART. 12. In view of the complexity of the conditions in which the Council may be called upon to exercise the functions mentioned in Article 11 of the present Protocol concerning economic and financial sanctions, and in order to determine more exactly the guarantees afforded by the present Protocol to the signatory States, the Council shall forthwith invite the economic and financial organisations of the League of Nations to consider and report as to the nature of the steps to be taken to give effect to the financial and economic sanctions and measures of co-operation contemplated in Article 16 of the Covenant and in Article 11 of this Protocol.

When in possession of this information, the Council shall draw up through its competent organs:

1. Plans of action for the application of the economic and financial sanctions against an aggressor State;

2. Plans of economic and financial co-operation between a State attacked and the different States assisting it;

and shall communicate these plans to the Members of the League and to the other signatory States.

ART. 13. In view of the contingent military, naval and air sanctions provided for by Article 16 of the Covenant and by Article 11 of the present Protocol, the Council shall be entitled to receive undertakings from States determining in advance the military, naval and air forces which they would be able to bring into action immediately to ensure the fulfilment of the obligations in regard to sanctions which result from the Covenant and the present Protocol.

Furthermore, as soon as the Council has called upon the signatory States to apply sanctions, as provided in the last paragraph of Article 10 above, the said States may, in accordance with any agreements which they may previously have concluded, bring to the assistance of a particular State, which is the victim of aggression, their military, naval and air forces.

The agreements mentioned in the preceding paragraph shall be registered and published by the Secretariat of the League of Nations. They shall remain open to all States Members of the League which may desire to accede thereto.

ART. 14. The Council shall alone be competent to declare that the application of sanctions shall cease and normal conditions be re-established.

ART. 15. In conformity with the spirit of the present Protocol, the signatory States agree that the whole cost of any military, naval or air operations undertaken for the repression of an aggression under the terms of the Protocol, and reparation for all losses suffered by individuals, whether civilians or combatants, and for all material damage caused by the operations of both sides, shall be borne by the aggressor State up to the extreme limit of its capacity.

Nevertheless, in view of Article 10 of the Covenant, neither the territorial integrity nor the political independence of the aggressor State shall in any case be affected as the result of the application of the sanctions mentioned in the present Protocol.

ART. 16. The signatory States agree that in the event of a dispute between one or more of them and one or more States which have not signed the present Protocol and are not Members of the League of Nations, such non-Member States shall be invited, on the conditions contemplated in Article 17 of the Covenant, to submit, for the purpose of a pacific settlement, to the obligations accepted by the States signatories of the present Protocol

If the State so invited, having refused to accept the said conditions and obligations, resorts to war against a signatory State, the provisions of Article 16 of the Covenant, as defined by the present Protocol, shall be applicable against it

ART 17 The signatory States undertake to participate in an International Conference for the Reduction of Armaments which shall be convened by the Council and shall meet at Geneva on Monday, June 15th, 1925. All other States, whether Members of the League or not, shall be invited to this Conference

In preparation for the convening of the Conference, the Council shall draw up with due regard to the undertakings contained in Articles 11 and 13 of the present Protocol, a general programme for the reduction and limitation of armaments, which shall be laid before the Conference and which shall be communicated to the Governments at the earliest possible date, and at the latest three months before the Conference meets

If by May 1st, 1925, ratifications have not been deposited by at least a majority of the permanent Members of the Council and ten other Members of the League, the Secretary General of the League shall immediately consult the Council as to whether he shall cancel the invitations or merely adjourn the Conference to a subsequent date to be fixed by the Council so as to permit the necessary number of ratifications to be obtained

ART 18 Wherever mention is made in Article 10, or in any other provision of the present Protocol, of a decision of the Council, this shall be understood in the sense of Article 15 of the Covenant, namely, that the votes of the representatives of the parties to the dispute shall not be counted when reckoning unanimity or the necessary majority

ART 19 Except as expressly provided by its terms the present Protocol shall not affect in any way the rights and obligations of Members of the League as determined by the Covenant

ART 20 Any dispute as to the interpretation of the present Protocol shall be submitted to the Permanent Court of International Justice

ART 21 The present Protocol, of which the French and English texts are both authentic, shall be ratified

The deposit of ratifications shall be made at the Secretariat of the League of Nations as soon as possible

States of which the seat of government is outside Europe will be entitled merely to inform the Secretariat of the League of Nations that their ratification has been given, in that case, they must transmit the instrument of ratification as soon as possible

So soon as the majority of the permanent Members of the Council and ten other Members of the League have deposited or have effected their ratifications, a *procès-verbal* to that effect shall be drawn up by the Secretariat.

After the said *procès-verbal* has been drawn up, the Protocol shall come into force as soon as the plan for the reduction of armaments has been adopted by the Conference provided for in Article 17.

If within such period after the adoption of the plan for the reduction of armaments as shall be fixed by the said Conference, the plan has not been carried out, the Council shall make a declaration to that effect, this declaration shall render the present Protocol null and void.

The grounds on which the Council may declare that the plan drawn up by the International Conference for the Reduction of Armaments has not been carried out, and that in consequence the present Protocol has been rendered null and void, shall be laid down by the Conference itself.

A signatory State which, after the expiration of the period fixed by the Conference, fails to comply with the plan adopted by the Conference, shall not be admitted to benefit by the provisions of the present Protocol.

In faith whereof the Undersigned, duly authorised for this purpose, have signed the present Protocol.

Done at Geneva, on the second day of October, nineteen hundred and twenty-four, in a single copy, which will be kept in the archives of the Secretariat of the League and registered by it on the date of its coming into force.

## ANNEX IV

### THE GENERAL ACT FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES ADOPTED BY THE NINTH ASSEMBLY OF THE LEAGUE OF NATIONS ON SEPTEMBER 26, 1928

Entered into force August 16, 1929, ratifications have been deposited by Belgium, Norway, Sweden.

Original texts from League of Nations, *Pacific Settlement of International Disputes, Non Aggression and Mutual Assistance* (C 536 M 163 1928 IX, 10 15)

#### ACTE GÉNÉRAL

##### CHAPITRE I — DE LA CONCILIATION

ARTICLE 1<sup>er</sup> Les différends de toute nature entre deux ou plusieurs Parties ayant adhéré au présent Acte général qui n'auraient pu être résolus par la voie diplomatique seront, sauf les réserves éventuelles prévues à l'article 39,

#### GENERAL ACT

##### CHAPTER I — CONCILIATION

ART 1 Disputes of every kind between two or more Parties to the present General Act which it has not been possible to settle by diplomacy shall, subject to such reservations as may be made under Article 39, be submitted, under the conditions laid down in the present

soumis à la procédure de conciliation dans les conditions prévues au présent chapitre.

ART. 2. Les différends visés à l'article précédent seront portés devant une Commission de conciliation permanente ou spéciale constituée par les parties en cause.

ART. 3. Sur la demande adressée à cet effet par une Partie contractante à l'une des autres Parties, il devra être constitué, dans les six mois, une Commission permanente de conciliation.

ART. 4. Sauf accord contraire des parties intéressées, la Commission de conciliation sera constituée comme suit:

(1) La Commission comprendra cinq membres. Les parties en nommeront chacune un, qui pourra être choisi parmi leurs nationaux respectifs. Les trois autres commissaires seront choisis d'un commun accord parmi les ressortissants de tierces Puissances. Ces derniers devront être de nationalités différentes, ne pas avoir leur résidence habituelle sur le territoire des parties intéressées ni se trouver à leur service. Parmi eux, les parties désigneront le président de la Commission.

(2) Les commissaires seront nommés pour trois ans. Ils seront rééligibles. Les commissaires nommés en commun pourront être remplacés au cours de leur mandat, de l'accord des parties. Chaque partie pourra toujours, d'autre part, procéder au remplacement du commissaire nommé par elle. Nonobstant leur remplacement, les commissaires resteront en fonctions pour l'achèvement de leurs travaux en cours.

Chapter, to the procedure of conciliation.

ART. 2. The disputes referred to in the preceding article shall be submitted to a permanent or special Conciliation Commission constituted by the parties to the dispute.

ART. 3. On a request to that effect being made by one of the Contracting Parties to another Party, a permanent Conciliation Commission shall be constituted within a period of six months.

ART. 4. Unless the parties concerned agree otherwise, the Conciliation Commission shall be constituted as follows:

(1) The Commission shall be composed of five members. The parties shall each nominate one commissioner, who may be chosen from among their respective nationals. The three other commissioners shall be appointed by agreement from among the nationals of third Powers. These three commissioners must be of different nationalities and must not be habitually resident in the territory nor be in the service of the parties. The parties shall appoint the President of the Commission from among them.

(2) The commissioners shall be appointed for three years. They shall be re-eligible. The commissioners appointed jointly may be replaced during the course of their mandate by agreement between the parties. Either party may, however, at any time replace a commissioner whom it has appointed. Even if replaced, the commissioners shall continue to exercise their functions until the termination of the work in hand.

(3) Il sera pourvu, dans le plus bref délai, aux vacances qui viendraient à se produire par suite de décès ou de démission ou de quelque autre empêchement, en suivant le mode fixé pour les nominations

ART 5 Si, lorsqu'il s'élève un différend, il n'existe pas une commission permanente de conciliation nommée par les parties en litige, une commission spéciale sera constituée pour l'examen du différend dans un délai de trois mois à compter de la demande adressée par l'une des parties à l'autre. Les nominations se feront conformément aux dispositions de l'article précédent, à moins que les parties n'en décident autrement.

ART 6 (1) Si la nomination des commissaires à désigner en commun n'intervient pas dans les délais prévus aux articles 3 et 5, le soin de procéder aux nominations nécessaires sera confié à une tierce Puissance choisie d'un commun accord par les parties ou, si celles-ci le demandent, au président en exercice du Conseil de la Société des Nations.

(2) Si l'accord ne s'établit pas au sujet d'aucun de ces procédés, chaque partie désignera une Puissance différente et les nominations seront faites de concert par les Puissances ainsi choisies.

(3) Si, dans un délai de trois mois, ces deux Puissances n'ont pu tomber d'accord, chacune d'elles présentera des candidats en nombre égal à celui des membres à désigner. Le sort déterminera lesquels des candidats ainsi présentés seront admis.

ART 7 (1) La Commission de conciliation sera saisie par voie de

(3) Vacancies which may occur as a result of death, resignation or any other cause shall be filled within the shortest possible time in the manner fixed for the nominations.

ART 5 If, when a dispute arises, no permanent Conciliation Commission appointed by the parties is in existence, a special commission shall be constituted for the examination of the dispute within a period of three months from the date at which a request to that effect is made by one of the parties to the other party. The necessary appointments shall be made in the manner laid down in the preceding article, unless the parties decide otherwise.

ART 6 (1) If the appointment of the commissioners to be designated jointly is not made within the periods provided for in Articles 3 and 5, the making of the necessary appointments shall be entrusted to a third Power, chosen by agreement between the parties, or on request of the parties, to the Acting President of the Council of the League of Nations.

(2) If no agreement is reached on either of these procedures, each party shall designate a different Power, and the appointment shall be made in concert by the Powers thus chosen.

(3) If, within a period of three months, the two Powers have been unable to reach an agreement, each of them shall submit a number of candidates equal to the number of members to be appointed. It shall then be decided by lot which of the candidates thus designated shall be appointed.

ART 7 (1) Disputes shall be brought before the Conciliation

requête adressée au président, par les deux parties agissant d'un commun accord, ou, à défaut, par l'une ou l'autre des parties

(2) La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation

(3) Si la requête émane d'une seule des parties, elle sera notifiée par celle-ci, sans délai, à l'autre partie

ART 8 (1) Dans un délai de quinze jours à partir de la date où l'une des parties aura porté un différend devant une Commission permanente de conciliation, chacune des parties pourra, pour l'examen de ce différend remplacer son commissaire par une personne possédant une compétence spéciale dans la matière

(2) La partie qui usera de ce droit en fera immédiatement la notification à l'autre partie, celle-ci aura, dans ce cas, la faculté d'agir de même dans un délai de quinze jours à compter de la date où la notification lui sera parvenue

ART 9 (1) La Commission de conciliation se réunira, sauf accord contraire des parties, au siège de la Société des Nations ou en tout autre lieu désigné par son président

(2) La Commission pourra, en toute circonstance, demander au Secrétaire général de la Société des Nations de prêter son assistance à ses travaux

ART 10 Les travaux de la Commission de conciliation ne seront publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des parties

Commission by means of an application addressed to the President by the two parties acting in agreement, or in default thereof by one or other of the parties

(2) The application, after giving a summary account of the subject of the dispute, shall contain the invitation to the Commission to take all necessary measures with a view to arriving at an amicable solution

(3) If the application emanates from only one of the parties, the other party shall, without delay, be notified by it

ART 8 (1) Within fifteen days from the date on which a dispute has been brought by one of the parties before a permanent Conciliation Commission, either party may replace its own commissioner, for the examination of the particular dispute, by a person possessing special competence in the matter

(2) The party making use of this right shall immediately notify the other party, the latter shall, in such case, be entitled to take similar action within fifteen days from the date on which it received the notification

ART 9 (1) In the absence of agreement to the contrary between the parties, the Conciliation Commission shall meet at the seat of the League of Nations, or at some other place selected by its President

(2) The Commission may in all circumstances request the Secretary General of the League of Nations to afford it his assistance

ART 10 The work of the Conciliation Commission shall not be conducted in public unless a decision to that effect is taken by the Commission with the consent of the parties

ART. 11. (1) Sauf accord contraire des parties, la Commission de conciliation réglera elle-même sa procédure qui, dans tous les cas, devra être contradictoire. En matière d'enquête, la Commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du titre III de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

(2) Les parties seront représentées auprès de la Commission de conciliation par des agents ayant mission de servir d'intermédiaires entre elles et la Commission; elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet et demander l'audition de toutes personnes dont le témoignage leur paraîtrait utile.

(3) La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux parties, ainsi qu'à toutes personnes qu'elle jugerait utile de faire comparaitre avec l'assentiment de leur gouvernement.

ART. 12. Sauf accord contraire des parties, les décisions de la Commission de conciliation seront prises à la majorité des voix et la Commission ne pourra se prononcer sur le fond du différend que si tous ses membres sont présents.

ART. 13. Les parties s'engagent à faciliter les travaux de la Commission de conciliation et, en particulier, à lui fournir, dans la plus large mesure possible, tous documents et informations utiles, ainsi qu'à user des moyens dont elles disposent pour lui permettre de procéder sur leur territoire et selon

ART. 11. (1) In the absence of agreement to the contrary between the parties, the Conciliation Commission shall lay down its own procedure, which in any case must provide for both parties being heard. In regard to enquiries, the Commission, unless it decides unanimously to the contrary, shall act in accordance with the provisions of Part III of the Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes.

(2) The parties shall be represented before the Conciliation Commission by agents, whose duty shall be to act as intermediaries between them and the Commission; they may, moreover, be assisted by counsel and experts appointed by them for that purpose and may request that all persons whose evidence appears to them desirable shall be heard.

(3) The Commission, for its part, shall be entitled to request oral explanations from the agents, counsel and experts of both parties, as well as from all persons it may think desirable to summon with the consent of their Governments.

ART. 12. In the absence of agreement to the contrary between the parties, the decisions of the Conciliation Commission shall be taken by a majority vote, and the Commission may only take decisions on the substance of the dispute if all its members are present.

ART. 13. The parties undertake to facilitate the work of the Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to allow it to proceed in their territory, and in accordance

leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux.

ART. 14. (1) Pendant la durée de leurs travaux, chacun des commissaires recevra une indemnité dont le montant sera arrêté du commun accord des parties, qui en supporteront chacune une part égale.

(2) Les frais généraux occasionnés par le fonctionnement de la Commission seront répartis de la même façon.

ART. 15. (1) La Commission de conciliation aura pour tâche d'éclaircir les questions en litige, de recueillir à cette fin toutes les informations utiles, par voie d'enquête ou autrement, et de s'efforcer de concilier les parties. Elle pourra, après examen de l'affaire, exposer aux parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

(2) A la fin de ses travaux, la Commission dressera un procès-verbal constatant, suivant le cas, soit que les parties se sont arrangées et, s'il y a lieu, les conditions de l'arrangement, soit que les parties n'ont pu être conciliées. Le procès-verbal ne mentionnera pas si les décisions de la Commission ont été prises à l'unanimité ou à la majorité.

(3) Les travaux de la Commission devront, à moins que les parties n'en conviennent autrement, être terminés dans un délai de six mois à compter du jour où la Commission aura été saisie du différend.

with their law, to the summoning and hearing of witnesses or experts and to visit the localities in question.

ART. 14. (1) During the proceedings of the Commission, each of the commissioners shall receive emoluments the amount of which shall be fixed by agreement between the parties, each of which shall contribute an equal share.

(2) The general expenses arising out of the working of the Commission shall be divided in the same manner.

ART. 15. (1) The task of the Conciliation Commission shall be to elucidate the questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the parties to an agreement. It may, after the case has been examined, inform the parties of the terms of settlement which seem suitable to it, and lay down the period within which they are to make their decision.

(2) At the close of its proceedings, the Commission shall draw up a procès-verbal stating, as the case may be, either that the parties have come to an agreement and, if need arises, the terms of the agreement, or that it has been impossible to effect a settlement. No mention shall be made in the procès-verbal of whether the Commission's decisions were taken unanimously or by a majority vote.

(3) The proceedings of the Commission must, unless the parties otherwise agree, be terminated within six months from the date on which the Commission shall have been given cognisance of the dispute.



ART 16 Le procès-verbal de la Commission sera porté sans délai à la connaissance des parties. Il appartiendra aux parties d'en décider la publication.

ART 16. The Commission's procès-verbal shall be communicated without delay to the parties. The parties shall decide whether it shall be published.

## CHAPITRE II — DU RÈGLEMENT JUDICIAIRE

## CHAPTER II — JUDICIAL SETTLEMENT

ART 17 Tous différends au sujet desquels les parties se contesteront réciproquement un droit seront, sauf les réserves éventuelles prévues à l'article 39, soumis pour jugement à la Cour permanente de Justice internationale, à moins que les parties ne tombent d'accord, dans les termes prévus ci-après, pour recourir à un tribunal arbitral. Il est entendu que les différends ci-dessus visés comprennent notamment ceux que mentionne l'article 36 du Statut de la Cour permanente de Justice internationale.

ART 17 All disputes with regard to which the parties are in conflict as to their respective rights shall, subject to any reservations which may be made under Article 39, be submitted for decision to the Permanent Court of International Justice, unless the parties agree, in the manner hereinafter provided, to have resort to an arbitral tribunal.

It is understood that the disputes referred to above include in particular those mentioned in Article 36 of the Statute of the Permanent Court of International Justice.

ART 18 Si les parties sont d'accord pour soumettre les différends visés à l'article précédent à un tribunal arbitral, elles rédigeront un compromis dans lequel elles fixeront l'objet du litige, le choix des arbitres et la procédure à suivre. À défaut d'indications ou de précisions suffisantes dans le compromis, il sera fait application, dans la mesure nécessaire, des dispositions de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

Dans le silence du compromis quant aux règles de fond à appliquer par les arbitres, le Tribunal appliquera les règles de fond énumérées dans l'article 38 du Statut de la Cour permanente de Justice internationale.

ART 18 If the parties agree to submit the disputes mentioned in the preceding article to an arbitral tribunal, they shall draw up a special agreement in which they shall specify the subject of the dispute, the arbitrators selected, and the procedure to be followed. In the absence of sufficient particulars in the special agreement, the provisions of the Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes shall apply so far as is necessary. If nothing is laid down in the special agreement as to the rules regarding the substance of the dispute to be followed by the arbitrators, the tribunal shall apply the substantive rules enumerated in Article 38 of the Statute of the Permanent Court of International Justice.

ART. 19. A défaut d'accord entre les parties sur le compromis visé à l'article précédent ou à défaut de désignation d'arbitres et après un préavis de trois mois, l'une ou l'autre d'entre elles aura la faculté de porter directement, par voie de requête, le différend devant la Cour permanente de Justice internationale

ART 20 (1) Par dérogation à l'article 1, les différends visés à l'article 17, qui viendraient à surgir entre parties ayant adhéré aux engagements contenus dans le présent chapitre ne seront soumis à la procédure de conciliation que de leur commun accord

(2) La procédure obligatoire de conciliation demeure applicable aux différends qui, par le jeu des réserves visées à l'article 39, seraient exclus du seul règlement judiciaire

(3) En cas de recours à la conciliation et d'échec de cette procédure, aucune des parties ne pourra porter le différend devant la Cour permanente de Justice internationale ou demander la constitution du tribunal arbitral visé à l'article 18 avant l'expiration du délai d'un mois à compter de la clôture des travaux de la Commission de conciliation

### CHAPITRE III — DU RÈGIME ARBITRAL

ART 21 Tous différends autres que ceux visés à l'article 17, au sujet desquels dans le mois qui suivra la clôture des travaux de la Commission de conciliation visée au chapitre I, les parties ne se seraient pas entendues, seront portés, sauf les réserves éventuelles prévues à l'article 39, devant un

ART. 19 If the parties fail to agree concerning the special agreement referred to in the preceding article, or fail to appoint arbitrators, either party shall be at liberty, after giving three months' notice, to bring the dispute by an application direct before the Permanent Court of International Justice

ART 20 (1) Notwithstanding the provisions of Article 1, disputes of the kind referred to in Article 17 arising between parties who have acceded to the obligations contained in the present chapter shall only be subject to the procedure of conciliation if the parties so agree

(2) The obligation to resort to the procedure of conciliation remains applicable to disputes which are excluded from judicial settlement only by the operation of reservations under the provisions of Article 39

(3) In the event of recourse to and failure of conciliation, neither party may bring the dispute before the Permanent Court of International Justice or call for the constitution of the arbitral tribunal referred to in Article 18 before the expiration of one month from the termination of the proceedings of the Conciliation Commission

### CHAPTER III — ARBITRATION

ART 21 Any dispute not of the kind referred to in Article 17 which does not, within the month following the termination of the work of the Conciliation Commission provided for in Chapter I, form the object of an agreement between the parties, shall, subject to such reservations as may be made under Article 39, be brought before an

tribunal arbitral constitué, à moins d'accord contraire des parties, de la manière indiquée ci-après.

ART. 22. Le tribunal arbitral comprendra cinq membres. Les parties en nommeront chacune un qui pourra être choisi parmi leurs nationaux respectifs. Les deux autres arbitres et le surarbitre seront choisis d'un commun accord parmi les ressortissants de tierces Puissances. Ces derniers devront être de nationalités différentes, ne pas avoir leur résidence habituelle sur le territoire des parties intéressées ni se trouver à leur service.

ART. 23. (1) Si la nomination des membres du tribunal arbitral n'intervient pas dans un délai de trois mois, à compter de la demande adressée par l'une des parties à l'autre de constituer un tribunal arbitral, le soin de procéder aux nominations nécessaires sera confié à une tierce Puissance choisie d'un commun accord par les parties.

(2) Si l'accord ne s'établit pas à ce sujet, chaque partie désignera une Puissance différente et les nominations seront faites de concert par les Puissances ainsi choisies.

(3) Si, dans un délai de trois mois, les Puissances ainsi désignées n'ont pu tomber d'accord, les nominations nécessaires seront faites par le président de la Cour permanente de Justice internationale. Si celui-ci est empêché ou s'il est ressortissant de l'une des parties, les nominations seront faites par le vice-président. Si celui-ci est empêché ou s'il est ressortissant de l'une des parties, les nominations seront faites par le membre le plus âgé de la Cour qui n'est ressortissant d'aucune des parties.

arbitral tribunal which, unless the parties otherwise agree, shall be constituted in the manner set out below.

ART. 22. The Arbitral Tribunal shall consist of five members. The parties shall each nominate one member, who may be chosen from among their respective nationals. The two other arbitrators and the Chairman shall be chosen by common agreement from among the nationals of third Powers. They must be of different nationalities and must not be habitually resident in the territory nor be in the service of the parties.

ART. 23. (1) If the appointment of the members of the Arbitral Tribunal is not made within a period of three months from the date on which one of the parties requested the other party to constitute an arbitral tribunal, a third Power, chosen by agreement between the parties, shall be requested to make the necessary appointments.

(2) If no agreement is reached on this point, each party shall designate a different Power, and the appointments shall be made in concert by the Powers thus chosen.

(3) If, within a period of three months, the two Powers so chosen have been unable to reach an agreement, the necessary appointments shall be made by the President of the Permanent Court of International Justice. If the latter is prevented from acting or is a subject of one of the parties, the nomination shall be made by the Vice-President. If the latter is prevented from acting or is a subject of one of the parties, the appointments shall be made by the oldest member of the Court who is not a subject of either party.

ART. 24. Il sera pourvu, dans le plus bref délai, aux vacances qui viendraient à se produire par suite de décès ou de démission, ou de quelque autre empêchement, en suivant le mode fixé pour les nominations.

ART. 25. Les parties rédigeront un compromis déterminant l'objet du litige et la procédure à suivre

ART. 26. A défaut d'indications ou de précisions suffisantes dans le compromis, relativement aux points indiqués dans l'article précédent, il sera fait application, dans la mesure nécessaire, des dispositions de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

ART. 27. Faute de conclusion d'un compromis dans un délai de trois mois à partir de la constitution du tribunal, celui-ci sera saisi par requête de l'une ou l'autre des parties.

ART. 28. Dans le silence du compromis où à défaut de compromis, le tribunal appliquera les règles de fond énumérées dans l'article 38 du Statut de la Cour permanente de Justice internationale. En tant qu'il n'existe pas de pareilles règles applicables au différend, le tribunal jugera *ex aequo et bono*

ART. 24. Vacancies which may occur as a result of death, resignation or any other cause shall be filled within the shortest possible time in the manner fixed for the nominations.

ART. 25. The parties shall draw up a special agreement determining the subject of the disputes and the details of procedure

ART. 26. In the absence of sufficient particulars in the special agreement regarding the matters referred to in the preceding article, the provisions of the Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes shall apply so far as is necessary

ART. 27. Failing the conclusion of a special agreement within a period of three months from the date on which the Tribunal was constituted, the dispute may be brought before the Tribunal by an application by one or other party.

ART. 28. If nothing is laid down in the special agreement or no special agreement has been made, the Tribunal shall apply the rules in regard to the substance of the dispute enumerated in Article 38 of the Statute of the Permanent Court of International Justice. In so far as there exists no such rule applicable to the dispute, the Tribunal shall decide *ex aequo et bono*.

#### CHAPITRE IV. — DISPOSITIONS GÉNÉRALES

ART. 29. (1) Les différends pour la solution desquels une procédure spéciale serait prévue par d'autres conventions en vigueur entre les parties en litige seront réglés con-

#### CHAPTER IV. — GENERAL PROVISIONS

ART. 29. (1) Disputes for the settlement of which a special procedure is laid down in other conventions in force between the parties to the dispute shall be

formément aux dispositions de ces conventions

(2) Le présent Acte général ne porte pas atteinte aux accords en vigueur établissant pour les Parties une procédure de conciliation ou, en matière d'arbitrage et de règlement judiciaire, des engagements assurant la solution du différend. Toutefois, si ces accords ne prévoient qu'une procédure de conciliation, après que cette procédure aura échoué, les dispositions du présent Acte général relatives au règlement judiciaire ou arbitral recevront application dans la mesure où les parties en cause y auraient adhéré.

ART 30 Si la Commission de conciliation se trouve saisie par l'une des parties d'un différend que l'autre partie, se fondant sur les conventions en vigueur entre les parties, a porté devant la Cour permanente de Justice internationale ou un tribunal arbitral, la Commission suspendra l'examen du différend jusqu'à ce que la Cour ou le tribunal ait statué sur le conflit de compétence. Il en sera de même si la Cour ou le tribunal a été saisi par l'une des parties en cours de conciliation.

ART 31 (1) S'il s'agit d'un différend dont l'objet d'après la législation intérieure de l'une des parties, relève de la compétence des autorités judiciaires ou administratives, cette partie pourra s'opposer à ce que ce différend soit soumis aux diverses procédures prévues par le présent Acte général, avant qu'une décision définitive ait été rendue, dans les délais raisonnables, par l'autorité compétente.

settled in conformity with the provisions of those conventions

(2) The present General Act shall not affect any agreements in force by which conciliation procedure is established between the Parties or they are bound by obligations to resort to arbitration or judicial settlement which ensure the settlement of the dispute. If, however, these agreements provide only for a procedure of conciliation, after such procedure has been followed without result, the provisions of the present General Act concerning judicial settlement or arbitration shall be applied in so far as the parties have acceded thereto.

ART 30 If a party brings before a Conciliation Commission a dispute which the other party, relying on conventions in force between the parties, has submitted to the Permanent Court of International Justice or an Arbitral Tribunal, the Commission shall defer consideration of the dispute until the Court of the Arbitral Tribunal has pronounced upon the conflict of competence. The same rule shall apply if the Court or the Tribunal is seized of the case by one of the parties during the conciliation proceedings.

ART 31 (1) In the case of a dispute the occasion of which, according to the municipal law of one of the parties, falls within the competence of its judicial or administrative authorities, the party in question may object to the matter in dispute being submitted for settlement by the different methods laid down in the present General Act until a decision with final effect has been pronounced, within a reasonable time, by the competent authority.

(2) La partie qui, dans ce cas, voudra recourir aux procédures prévues par la présente Convention devra notifier à l'autre partie son intention, dans un délai d'un an, à partir de la décision susvisée

ART 32 Si la sentence judiciaire ou arbitrale déclarait qu'une décision prise ou une mesure ordonnée par une autorité judiciaire ou toute autre autorité de l'une des parties en litige se trouve entièrement ou partiellement en opposition avec le droit international, et si le droit constitutionnel de ladite partie ne permettait pas ou ne permettait qu'imparfaitement d'effacer les conséquences de cette décision ou de cette mesure, les parties conviennent qu'il devra être accordé par la sentence judiciaire ou arbitrale, à la partie lésée, une satisfaction équitable

ART 33 (1) Dans tous les cas où le différend fait l'objet d'une procédure arbitrale ou judiciaire, notamment si la question au sujet de laquelle les parties sont divisées, résulte d'actes déjà effectués ou sur le point de l'être, la Cour permanente de Justice internationale, statuant conformément à l'article 41 de son Statut, ou le tribunal arbitral, indiquera, dans le plus bref délai possible, quelles mesures provisoires doivent être prises. Les parties en litige seront tenues de s'y conformer

(2) Si une Commission de conciliation se trouve saisie du différend, elle pourra recommander aux parties les mesures provisoires qu'elle estimera utiles

(3) Les parties s'engagent à s'abstenir de toute mesure susceptible d'avoir une répercussion préjudiciable à l'exécution de la

(2) In such a case, the party which desires to resort to the procedures laid down in the present General Act must notify the other party of its intention within a period of one year from the date of the aforementioned decision

ART 32 If, in a judicial sentence or arbitral award, it is declared that a judgment, or a measure enjoined by a court of law or other authority of one of the parties to the dispute, is wholly or in part contrary to international law, and if the constitutional law of that party does not permit or only partially permits the consequences of the judgment or measure in question to be annulled, the parties agree that the judicial sentence or arbitral award shall grant the injured party equitable satisfaction

ART 33 (1) In all cases where a dispute forms the object of arbitration or judicial proceedings, and particularly if the question on which the parties differ arises out of acts already committed or on the point of being committed, the Permanent Court of International Justice, acting in accordance with Article 41 of its Statute, or the Arbitral Tribunal, shall lay down within the shortest possible time the provisional measures to be adopted. The parties to the dispute shall be bound to accept such measures

(2) If the dispute is brought before a Conciliation Commission, the latter may recommend to the parties the adoption of such provisional measures as it considers suitable

(3) The parties undertake to abstain from all measures likely to react prejudicially upon the execution of the judicial or arbitral

aux arrangements proposés par la Commission de conciliation, et, en général, à ne procéder à aucun acte, de quelque nature qu'il soit, susceptible d'aggraver ou d'étendre le différend.

ART. 34. Au cas où il s'élève un différend entre plus de deux parties ayant adhéré au présent Acte général, les modalités suivantes seront observées pour l'application des procédures décrites dans les dispositions qui précèdent:

(a) Pour la procédure de conciliation, il sera toujours constitué une commission spéciale. Sa composition variera suivant que les parties auront toutes des intérêts distincts ou que deux ou plusieurs d'entre elles feront cause commune.

Dans le premier cas, les parties nommeront chacune un commissaire et désigneront en commun des commissaires ressortissants de tierces Puissances non parties au différend, dont le nombre sera toujours supérieur d'un à celui des commissaires nommés séparément par les parties.

Dans le second cas, les parties faisant cause commune se mettront d'accord pour nommer en commun leur propre commissaire et concourront avec l'autre ou les autres parties pour la désignation des commissaires tiers.

Dans l'une et l'autre hypothèse, les parties, à moins qu'elles n'en conviennent autrement, appliqueront les articles 5 et suivants du présent Acte dans la mesure où ils sont compatibles avec les dispositions du présent article.

(b) Pour la procédure judiciaire, il sera fait application du Statut de la Cour permanente de Justice internationale.

(c) Pour la procédure arbitrale, à défaut d'accord des parties sur

décision judiciaire ou arbitrale ou decision or upon the arrangements proposed by the Conciliation Commission and, in general, to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

ART. 34. Should a dispute arise between more than two Parties to the present General Act, the following rules shall be observed for the application of the forms of procedure described in the foregoing provisions:

(a) In the case of conciliation procedure, a special commission shall invariably be constituted. The composition of such commission shall differ according as the parties all have separate interests or as two or more of their number act together.

In the former case, the parties shall each appoint one commissioner and shall jointly appoint commissioners nationals of third Powers not parties to the dispute, whose number shall always exceed by one the number of commissioners appointed separately by the parties.

In the second case, the parties who act together shall appoint their commissioner jointly by agreement between themselves and shall combine with the other party or parties in appointing third commissioners.

In either event, the parties, unless they agree otherwise, shall apply Article 5 and the following articles of the present Act, so far as they are compatible with the provisions of the present article.

(b) In the case of judicial procedure, the Statute of the Permanent Court of International Justice shall apply.

(c) In the case of arbitral procedure, if agreement is not secured

la composition du tribunal, s'il s'agit de différends visés à l'article 17, chacune d'elle aura la faculté de porter directement, par voie de requête, le différend devant la Cour permanente de Justice internationale; s'il s'agit de différends visés à l'article 21, il sera fait application des articles 22 et suivants, ci-dessus, mais chacune des parties ayant des intérêts distincts nommera un arbitre et le nombre des arbitres nommés séparément par les parties sera toujours inférieur d'un à celui des autres arbitres.

ART. 35. (1) Le présent Acte général sera applicable entre Parties y ayant adhéré, encore qu'une tierce Puissance, Partie ou non à l'Acte, ait un intérêt dans le différend.

(2) Dans la procédure de conciliation, les parties pourront, d'un commun accord, inviter une tierce Puissance.

ART. 36. (1) Dans la procédure judiciaire ou arbitrale, si une tierce Puissance estime que, dans un différend un intérêt d'ordre juridique est pour elle en cause, elle peut adresser à la Cour permanente de Justice internationale ou au tribunal arbitral une requête à fin d'intervention.

(2) La Cour ou le tribunal décide.

ART. 37. (1) Lorsqu'il s'agit de l'interprétation d'une convention à laquelle auront participé d'autres Etats que les parties en cause, le Greffe de la Cour permanente de Justice internationale ou le tribunal arbitral les avertit sans délai.

(2) Chacun d'eux aura le droit d'intervenir et, s'il exerce cette

as to the composition of the tribunal, in the case of the disputes mentioned in Article 17 each party shall have the right, by means of an application, to submit the dispute to the Permanent Court of International Justice; in the case of the disputes mentioned in Article 21, the above Article 22 and following articles shall apply, but each party having separate interests shall appoint one arbitrator and the number of arbitrators separately appointed by the parties to the dispute shall always be one less than that of the other arbitrators.

ART. 35. (1) The present General Act shall be applicable as between the Parties thereto, even though a third Power, whether a party to the Act or not, has an interest in the dispute.

(2) In conciliation procedure, the parties may agree to invite such third Power to intervene.

ART. 36. (1) In judicial or arbitral procedure, if a third Power should consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit to the Permanent Court of International Justice or to the arbitral tribunal a request to intervene as a third Party.

(2) It will be for the Court or the tribunal to decide upon this request.

ART. 37. (1) Whenever the construction of a convention to which States other than those concerned in the case are parties is in question, the Registrar of the Permanent Court of International Justice or the arbitral tribunal shall notify all such States forthwith.

(2) Every State so notified has the right to intervene in the pro-



faculté, l'interprétation contenue dans la sentence est obligatoire à son égard.

ART. 38. Les adhésions au présent Acte général pourront s'appliquer:

A. Soit à l'ensemble de l'Acte (chapitres I, II, III et IV);

B. Soit seulement aux dispositions relatives à la conciliation et au règlement judiciaire (chapitres I et II), ainsi qu'aux dispositions générales concernant ces procédures (chapitre IV);

C. Soit seulement aux dispositions relatives à la conciliation (chapitre I), ainsi qu'aux dispositions générales concernant cette procédure (chapitre IV).

Les Parties contractantes ne pourront se prévaloir des adhésions d'autres Parties que dans la mesure où elles-mêmes auront souscrit aux mêmes engagements.

ART. 39. (1) Indépendamment de la faculté mentionnée à l'article précédent, une Partie pourra, en adhérant au présent Acte général, subordonner son acceptation aux réserves limitativement énumérées dans le paragraphe suivant. Ces réserves devront être indiquées au moment de l'adhésion.

(2) Ces réserves pourront être formulées de manière à exclure des procédures décrites par le présent Acte:

(a) Les différends nés de faits antérieurs, soit à l'adhésion de la Partie qui formule la réserve, soit à l'adhésion d'une autre Partie avec laquelle la première viendrait à avoir un différend;

(b) Les différends portant sur des questions que le droit international laisse à la compétence exclusive de Etats;

ceedings; but, if it uses this right, the construction given by the decision will be binding upon it.

ART. 38. Accessions to the present General Act may extend:

A. Either to all the provisions of the Act (Chapters I, II, III and IV);

B. Or to those provisions only which relate to conciliation and judicial settlement (Chapters I and II), together with the general provisions dealing with these procedures (Chapter IV);

C. Or to those provisions only which relate to conciliation (Chapter I), together with the general provisions concerning that procedure (Chapter IV).

The Contracting Parties may benefit by the accessions of other Parties only in so far as they have themselves assumed the same obligations.

ART. 39. (1) In addition to the power given in the preceding article, a Party, in acceding to the present General Act, may make his acceptance conditional upon the reservations exhaustively enumerated in the following paragraph. These reservations must be indicated at the time of accession.

(2) These reservations may be such as to exclude from the procedure described in the present Act:

(a) Disputes arising out of facts prior to the accession either of the Party making the reservation or of any other Party with whom the said Party may have a dispute;

(b) Disputes concerning questions which by international law are solely within the domestic jurisdiction of States;

(c) Les différends portant sur des affaires déterminées, ou des matières spéciales nettement définies, telles que le statut territorial, ou rentrant dans des catégories bien précisées.

(3) Si une des parties en litige a formulé une réserve, les autres parties pourront se prévaloir vis-à-vis d'elle de la même réserve.

(4) Pour les Parties ayant adhéré aux dispositions du présent Acte relatives au règlement judiciaire ou au règlement arbitral, les réserves qu'elles auraient formulées seront, sauf mention expresse, comprises comme ne s'étendant pas à la procédure de conciliation.

ART. 40. Toute Partie dont l'adhésion n'aura été que partielle ou subordonnée à des réserves pourra, à tout moment, au moyen d'une simple déclaration, soit étendre la portée de son adhésion, soit renoncer à tout ou partie de ses réserves.

ART. 41. Les différends relatifs à l'interprétation ou à l'application du présent Acte général, y compris ceux relatifs à la qualification des litiges et à la portée des réserves éventuelles, seront soumis à la Cour permanente de Justice internationale.

ART. 42. Le présent Acte général, dont les textes français et anglais feront également foi, portera la date du 26 septembre 1928.

ART. 43. (1) Le présent Acte général sera ouvert à l'adhésion de tout chef d'Etat ou de toute autre autorité compétente des Membres de la Société des Nations, ainsi que des Etats non membres à qui le Conseil de la Société des

(c) Disputes concerning particular cases or clearly specified subject-matters, such as territorial status, or disputes falling within clearly defined categories.

(3) If one of the parties to a dispute has made a reservation, the other parties may enforce the same reservation in regard to that party.

(4) In the case of Parties who have acceded to the provisions of the present General Act relating to judicial settlement or to arbitration, such reservations as they may have made shall, unless otherwise expressly stated, be deemed not to apply to the procedure of conciliation.

ART. 40. A Party whose accession has been only partial, or was made subject to reservations, may at any moment, by means of a simple declaration, either extend the scope of his accession or abandon all or part of his reservations.

ART. 41. Disputes relating to the interpretation or application of the present General Act, including those concerning the classification of disputes and the scope of reservations, shall be submitted to the Permanent Court of International Justice.

ART. 42. The present General Act, of which the French and English texts shall both be authentic, shall bear the date of the 26th of September, 1928.

ART. 43. (1) The present General Act shall be open to accession by all the Heads of States or other competent authorities of the Members of the League of Nations and the non-Member States to which the Council of the League of Na-

Nations aura, à cet effet, communiqué une copie

(2) Les instruments d'adhésion, ainsi que les déclarations additionnelles prévues à l'article 40, seront transmis au Secrétaire général de la Société des Nations, qui en notifiera la réception à tous les Membres de la Société et aux Etats non membres, visés dans l'alinéa précédent

(3) Par les soins du Secrétaire général, il sera dressé trois listes désignées par les lettres A, B, C, et correspondant respectivement aux trois modalités d'adhésion visées à l'article 38 du présent Acte, ou figureront les adhésions et les déclarations additionnelles des Parties contractantes. Ces listes, tenues constamment à jour, seront publiées dans le rapport annuel adressé à l'Assemblée par le Secrétaire général

ART 44 (1) Le présent Acte général entrera en vigueur le quatre-vingt-dixième jour qui suivra la réception, par le Secrétaire général de la Société des Nations, de l'adhésion d'au moins deux Parties contractantes

(2) Chaque adhésion qui interviendra après l'entrée en vigueur du présent Acte, conformément à l'alinéa précédent, sortira ses effets dès le quatre-vingt-dixième jour qui suivra la date de sa réception par le Secrétaire général de la Société des Nations. Il en sera de même des déclarations additionnelles des Parties visées à l'article 40

ART 45 (1) Le présent Acte général aura une durée de cinq ans à partir de sa mise en vigueur

(2) Il restera en vigueur pour une nouvelle période de cinq ans, et ainsi de suite, vis-à-vis des

tions has communicated a copy for this purpose

(2) The instruments of accession and the additional declarations provided for by Article 40 shall be transmitted to the Secretary-General of the League of Nations, who shall notify their receipt to all the Members of the League and to the non Member States referred to in the preceding paragraph

(3) The Secretary-General of the League of Nations shall draw up three lists, denominated respectively by the letters A, B and C, corresponding to the three forms of accession to the present Act provided for in Article 38, in which shall be shown the accessions and additional declarations of the Contracting Parties. These lists, which shall be continually kept up to date, shall be published in the annual report presented to the Assembly of the League of Nations by the Secretary-General

ART 44 (1) The present General Act shall come into force on the ninetieth day following the receipt by the Secretary General of the League of Nations of the accession of not less than two Contracting Parties

(2) Accessions received after the entry into force of the Act, in accordance with the previous paragraph, shall become effective as from the ninetieth day following the date of receipt by the Secretary-General of the League of Nations. The same rule shall apply to the additional declarations provided for by Article 40

ART 45 (1) The present General Act shall be concluded for a period of five years, dating from its entry into force

(2) It shall remain in force for further successive periods of five years in the case of Contracting

Parties contractantes qui ne l'auront pas dénoncé six mois au moins avant l'expiration du terme

(3) La dénonciation se fera par notification écrite adressée au Secrétaire général de la Société des Nations, qui en informera tous les Membres de la Société et les Etats non membres mentionnés à l'article 43

(4) La dénonciation pourra n'être que partielle ou consister en la notification de réserves nouvelles

(5) Nonobstant la dénonciation par l'une des Parties contractantes impliquées dans un différend, toutes les procédures engagées au moment de l'expiration du terme de l'Acte général continueront jusqu'à leur achèvement normal

ART 46 Un exemplaire du présent Acte général, revêtu de la signature du président de l'Assemblée et de celle du Secrétaire général de la Société des Nations, sera déposé aux archives du Secrétariat, copie certifiée conforme du texte sera communiquée à tous les Membres de la Société des Nations, ainsi qu'aux Etats non membres désignés par le Conseil de la Société des Nations

ART 47 Le présent Acte général sera enregistré par le Secrétaire général de la Société des Nations à la date de son entrée en vigueur

Le Président de la neuvième session ordinaire de l'Assemblée de la Société des Nations

Herluf Zahle

Le Secrétaire général  
Eric Drummond

Parties which do not denounce it at least six months before the expiration of the current period

(3) Denunciation shall be effected by a written notification addressed to the Secretary-General of the League of Nations, who shall inform all the Members of the League and the non Member States referred to in Article 43

(4) A denunciation may be partial only, or may consist in notification of reservations not previously made

(5) Notwithstanding denunciation by one of the Contracting Parties concerned in a dispute, all proceedings pending at the expiration of the current period of the General Act shall be duly completed

ART 46 A copy of the present General Act, signed by the President of the Assembly and by the Secretary General of the League of Nations, shall be deposited in the archives of the Secretariat, a certified true copy shall be delivered by the Secretary General to all Members of the League of Nations and to the non Member States indicated by the Council of the League of Nations

ART 47 The present General Act shall be registered by the Secretary-General of the League of Nations on the date of its entry into force

The President of the ninth ordinary session of the Assembly of the League of Nations

Herluf Zahle

The Secretary General  
Eric Drummond

## ANNEX V

THE INTER-AMERICAN TREATIES OF CONCILIATION AND  
ARBITRATION SIGNED AT WASHINGTON ON  
JANUARY 5, 1929

A. — GENERAL CONVENTION OF INTER-AMERICAN  
CONCILIATION

Signed at Washington January 5, 1929; ratification of the United States of America deposited March 27, 1929.

Original text <sup>1</sup> from United States of America, *Treaty Series*, No. 780.

The Governments of Venezuela, Chile, Bolivia, Uruguay, Costa Rica, Perú, Honduras, Guatemala, Haiti, Ecuador, Colombia, Brazil, Panamá, Paraguay, Nicaragua, Mexico, El Salvador, the Dominican Republic, Cuba, and the United States of America, represented at the Conference on Conciliation and Arbitration, assembled at Washington, pursuant to the Resolution adopted on February 18, 1928, by the Sixth International Conference of American States held in the City of Habana:

Desiring to demonstrate that the condemnation of war as an instrument of national policy in their mutual relations, set forth in the above mentioned resolution, constitutes one of the fundamental bases of inter-American relations;

Animated by the purpose of promoting, in every possible way, the development of international methods for the pacific settlement of differences between the States;

Being convinced that the "Treaty to Avoid or Prevent Conflicts between the American States," signed at Santiago de Chile, May 3, 1923, constitutes a notable achievement in inter-American relations, which it is necessary to maintain by giving additional prestige and strength to the action of the commissions established by Articles III and IV of the aforementioned treaty;

Acknowledging the need of giving conventional form to these purposes have agreed to enter into the present Convention, for which purpose they have appointed Plenipotentiaries as follows:

Venezuela:  
Carlos F. Grisanti  
Francisco Arroyo Parejo

Chile:  
Manuel Foster Recabarren  
Antonio Planet

Bolivia:  
Eduardo Diez de Medina

Uruguay:  
José Pedro Varela

Costa Rica:  
Manuel Castro Quesada  
José Tible-Machado

Perú:  
Hernán Velarde  
Victor M. Maúrtua

<sup>1</sup> The Spanish, Portuguese, and French texts are also authentic.

**Honduras:**  
 Rómulo Durón  
 Marcos López Ponce

**Guatemala:**  
 Adrián Recinos  
 José Falla

**Haiti:**  
 Auguste Bonamy  
 Raoul Lizaire

**Ecuador:**  
 Gonzalo Zaldumbide

**Colombia:**  
 Enrique Olaya Herrera  
 Carlos Escallón

**Brazil:**  
 S. Gurgel do Amaral  
 A. G. de Araujo-Jorge

**Panamá:**  
 Ricardo J. Alfaro  
 Carlos L. López

**Paraguay:**  
 Eligio Ayala

**Nicaragua:**  
 Máximo H. Zepeda  
 Adrián Recinos  
 J. Lisandro Medina

**México:**  
 Fernando González Roa  
 Benito Flores

**El Salvador:**  
 Cayetano Ochoa  
 David Rosales, Jr.

**Dominican Republic:**  
 Angel Morales  
 Gustavo A. Díaz

**Cuba:**  
 Orestes Ferfara  
 Gustavo Gutiérrez

**United States of America:**  
 Frank B. Kellogg  
 Charles Evans Hughes

Who, after having deposited their full powers, which were found to be in good and due form by the Conference, have agreed as follows:

**ARTICLE 1.** The High Contracting Parties agree to submit to the procedure of conciliation established by this convention all controversies of any kind which have arisen or may arise between them for any reason and which it may not have been possible to settle through diplomatic channels.

**ART. 2.** The Commission of Inquiry to be established pursuant to the provisions of Article IV of the Treaty signed in Santiago de Chile on May 3, 1923, shall likewise have the character of Commission of Conciliation.

**ART. 3.** The Permanent Commissions which have been established by virtue of Article III of the Treaty of Santiago de Chile of May 3, 1923, shall be bound to exercise conciliatory functions, either on their own motion when it appears that there is a prospect of disturbance of peaceful relations, or at the request of a Party to the dispute, until the Commission referred to in the preceding article is organized.

**ART. 4.** The conciliatory functions of the Commission described in Article 2 shall be exercised on the occasions hereinafter set forth:

(1) The Commission shall be at liberty to begin its work with an effort to conciliate the differences submitted to its examination with a view to arriving at a settlement between the Parties.

(2) Likewise the same Commission shall be at liberty to endeavor to conciliate the Parties at any time which in the opinion of the Commission

may be considered to be favorable in the course of the investigation and within the period of time fixed therefor in Article V of the Treaty of Santiago de Chile of May 3, 1923.

(3) Finally, the Commission shall be bound to carry out its conciliatory function within the period of six months which is referred to in Article VII of the Treaty of Santiago de Chile of May 3, 1923.

The Parties to the controversy may, however, extend this time, if they so agree and notify the Commission in due time.

ART. 5. The present convention does not preclude the High Contracting Parties, or one or more of them, from tendering their good offices or their mediation, jointly or severally, on their own motion or at the request of one or more of the Parties to the controversy; but the High Contracting Parties agree not to make use of those means of pacific settlement from the moment that the Commission described in Article 2 is organized until the final act referred to in Article 11 of this convention is signed.

ART. 6. The function of the Commission, as an organ of conciliation, in all cases specified in Article 2 of this convention, is to procure the conciliation of the differences subject to its examination by endeavoring to effect a settlement between the Parties.

When the Commission finds itself to be within the case foreseen in paragraph 3 of Article 4 of this convention, it shall undertake a conscientious and impartial examination of the questions which are the subject of the controversy, shall set forth in a report the results of its proceedings, and shall propose to the Parties the bases of a settlement for the equitable solution of the controversy.

ART. 7. Except when the Parties agree otherwise, the decisions and recommendations of any Commission of Conciliation shall be made by a majority vote.

ART. 8. The Commission described in Article 2 of this convention shall establish its rules of procedure. In the absence of agreement to the contrary, the procedure indicated in Article IV of the Treaty of Santiago de Chile of May 3, 1923, shall be followed.

Each party shall bear its own expenses and a proportionate share of the general expenses of the Commission.

ART. 9. The report and the recommendations of the Commission, insofar as it may be acting as an organ of conciliation, shall not have the character of a decision nor an arbitral award, and shall not be binding on the Parties either as regards the exposition or interpretation of the facts or as regards questions of law.

ART. 10. As soon as possible after the termination of its labors the Commission shall transmit to the Parties a certified copy of the report and of the bases of settlement which it may propose.

The Commission in transmitting the report and the recommendations to the Parties shall fix a period of time, which shall not exceed six months, within which the Parties shall pass upon the bases of settlement above referred to.

ART. 11. Once the period of time fixed by the Commission for the Parties to make their decisions has expired, the Commission shall set forth in a final act the decision of the Parties, and if the conciliation has been effected, the terms of the settlement.

ART. 12. The obligations set forth in the second sentence of the first paragraph of Article I of the Treaty of Santiago de Chile of May 3, 1923, shall extend to the time when the final act referred to in the preceding article is signed.

ART. 13. Once the procedure of conciliation is under way it shall be interrupted only by a direct settlement between the Parties or by their agreement to accept absolutely the decision *ex aequo et bono* of an American Chief of State or to submit the controversy to arbitration or to an international court.

ART. 14. Whenever for any reason the Treaty of Santiago de Chile of May 3, 1923, does not apply, the Commission referred to in Article 2 of this convention shall be organized to the end that it may exercise the conciliatory functions stipulated in this convention; the Commission shall be organized in the same manner as that prescribed in Article IV of said treaty.

In such cases, the Commission thus organized shall be governed in its operation by the provisions, relative to conciliation, of this convention.

ART. 15. The provisions of the preceding article shall also apply with regard to the Permanent Commissions constituted by the aforementioned Treaty of Santiago de Chile, to the end that said Commissions may exercise the conciliatory functions prescribed in Article 3 of this convention.

ART. 16. The present convention shall be ratified by the High Contracting Parties in conformity with their respective constitutional procedures, provided that they have previously ratified the Treaty of Santiago, Chile, of May 3, 1923.

The original convention and the instruments of ratification shall be deposited in the Ministry for Foreign Affairs of the Republic of Chile which shall give notice of the ratifications through diplomatic channels to the other signatory Governments and the convention shall enter into effect for the High Contracting Parties in the order that they deposit their ratifications.

This convention shall remain in force indefinitely, but it may be denounced by means of notice given one year in advance at the expiration of which it shall cease to be in force as regards the Party denouncing the same, but shall remain in force as regards the other signatories. Notice of the denunciation shall be addressed to the Ministry for Foreign Affairs of the Republic of Chile which will transmit it for appropriate action to the other signatory Governments.

Any American State not a signatory of this convention may adhere to the same by transmitting the official instrument setting forth such adherence, to the Ministry for Foreign Affairs of the Republic of Chile which will notify the other High Contracting Parties thereof in the manner heretofore mentioned.



In witness whereof the above mentioned Plenipotentiaries have signed this convention in English, Spanish, Portuguese and French and hereunto affix their respective seals.

Done at the city of Washington, on this fifth day of January, 1929.

Carlos F. Grisanti	S. Gurgel do Amaral
Fr. Arroyo Parejo	A. Araujo-Jorge
A. Planet	R. J. Alfaro
Manuel Foster	Carlos L. López
E. Díez de Medina	Eligio Ayala
José Pedro Varela	Máximo H. Zepeda
Manuel Castro Quesada	Adrián Recinos
José Tible-Machado	J. Lisandro Medina
Hernán Velarde	Fernando González Roa
Victor M. Maúrtua	Benito Flores
Rómulo E. Durón	Cayetano Ochoa
M. López Ponce	David Rosales, hijo
Adrián Recinos	A. Morales
José Falla	G. A. Díaz
A. Bonamy	Orestes Ferrara
Raoul Lizaire	Gustavo Gutiérrez
Gonzalo Zaldumbide	Frank B. Kellogg
Enrique Olaya Herrera	Charles Evans Hughes
C. Escallón	

(Translation)

Chile exceptua en esta Convención las cuestiones que tengan origen en situaciones o hechos anteriores a ella.

Chile makes exception in this convention of questions which may arise from situations or acts prior thereto.

#### B.—GENERAL TREATY OF INTER-AMERICAN ARBITRATION

Signed at Washington January 5, 1929.

*Original text,<sup>1</sup> and English translation of the reservations, from The International Conference of American States on Conciliation and Arbitration, Washington, December 10, 1928-January 5, 1929 (Washington, 1929), pp. 24-48.*

The Governments of Venezuela, Chile, Bolivia, Uruguay, Costa Rica, Perú, Honduras, Guatemala, Haiti, Ecuador, Colombia, Brazil, Panamá, Paraguay, Nicaragua, Mexico, El Salvador, the Dominican Republic, Cuba, and the United States of America, represented at the Conference on Conciliation and Arbitration, assembled at Washington, pursuant to the Resolution adopted on February 18, 1928, by the Sixth International Conference of American States held in the City of Habana;

In accordance with the solemn declarations made at said Conference to the effect that the American Republics condemn war as an instrument of national policy and adopt obligatory arbitration as the means for the settlement of their international differences of a juridical character:

<sup>1</sup> The Spanish, Portuguese, and French texts are also authentic.

Being convinced that the Republics of the New World, governed by the principles, institutions and practices of democracy and bound furthermore by mutual interests, which are increasing each day, have not only the necessity but also the duty of avoiding the disturbance of continental harmony whenever differences which are susceptible of judicial decision arise among them;

Conscious of the great moral and material benefits which peace offers to humanity and that the sentiment and opinion of America demand, without delay, the organization of an arbitral system which shall strengthen the permanent reign of justice and law;

And animated by the purpose of giving conventional form to these postulates and aspirations with the minimum exceptions which they have considered indispensable to safeguard the independence and sovereignty of the States and in the most ample manner possible under present international conditions, have resolved to effect the present treaty, and for that purpose have designated the Plenipotentiaries hereinafter named:

[Here follow the names of the plenipotentiaries, as in Annex V, a.]

Who, after having deposited their full powers, found in good and due form by the Conference, have agreed upon the following:

ARTICLE 1. The High Contracting Parties bind themselves to submit to arbitration all differences of an international character which have arisen or may arise between them by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy and which are juridical in their nature by reason of being susceptible of decision by the application of the principles of law.

There shall be considered as included among the questions of juridical character:

- (a) The interpretation of a treaty;
- (b) Any question of international law;
- (c) The existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) The nature and extent of the reparation to be made for the breach of an international obligation.

The provisions of this treaty shall not preclude any of the Parties, before resorting to arbitration, from having recourse to procedures of investigation and conciliation established in conventions then in force between them.

ART. 2. There are excepted from the stipulations of this treaty the following controversies:

- (a) Those which are within the domestic jurisdiction of any of the Parties to the dispute and are not controlled by international law; and
- (b) Those which affect the interest or refer to the action of a State not a Party to this treaty.

ART. 3. The arbitrator or tribunal who shall decide the controversy shall be designated by agreement of the Parties.

In the absence of an agreement the following procedure shall be adopted:

Each Party shall nominate two arbitrators, of whom only one may be a national of said Party or selected from the persons whom said Party has designated as members of the Permanent Court of Arbitration at The Hague. The other member may be of any other American nationality. These arbitrators shall in turn select a fifth arbitrator who shall be the president of the court.

Should the arbitrators be unable to reach an agreement among themselves for the selection of a fifth American arbitrator, or in lieu thereof, of another who is not, each Party shall designate a non-American member of the Permanent Court of Arbitration at The Hague, and the two persons so designated shall select the fifth arbitrator, who may be of any nationality other than that of a Party to the dispute.

ART. 4. The Parties to the dispute shall formulate by common accord, in each case, a special agreement which shall clearly define the particular subject-matter of the controversy, the seat of the court, the rules which will be observed in the proceedings, and the other conditions to which the Parties may agree.

If an accord has not been reached with regard to the agreement within three months reckoned from the date of the installation of the court, the agreement shall be formulated by the court.

ART. 5. In case of death, resignation or incapacity of one or more of the arbitrators the vacancy shall be filled in the same manner as the original appointment.

ART. 6. When there are more than two States directly interested in the same controversy, and the interests of two or more of them are similar, the State or States who are on the same side of the question may increase the number of arbitrators on the court, provided that in all cases the Parties on each side of the controversy shall appoint an equal number of arbitrators. There shall also be a presiding arbitrator selected in the same manner as that provided in the last paragraph of Article 3, the Parties on each side of the controversy being regarded as a single Party for the purpose of making the designation therein described.

ART. 7. The award, duly pronounced and notified to the Parties, settles the dispute definitively and without appeal.

Differences which arise with regard to its interpretation or execution shall be submitted to the decision of the court which rendered the award.

ART. 8. The reservations made by one of the High Contracting Parties shall have the effect that the other Contracting Parties are not bound with respect to the Party making the reservations except to the same extent as that expressed therein.

ART. 9. The present treaty shall be ratified by the High Contracting Parties in conformity with their respective constitutional procedures.

The original treaty and the instruments of ratification shall be deposited in the Department of State of the United States of America which shall give notice of the ratifications through diplomatic channels to the other signatory Governments and the treaty shall enter into effect for

the High Contracting Parties in the order that they deposit their ratifications.

This treaty shall remain in force indefinitely, but it may be denounced by means of one year's previous notice at the expiration of which it shall cease to be in force as regards the Party denouncing the same, but shall remain in force as regards the other signatories. Notice of the denunciation shall be addressed to the Department of State of the United States of America which will transmit it for appropriate action to the other signatory Governments.

Any American State not a signatory of this treaty may adhere to the same by transmitting the official instrument setting forth such adherence to the Department of State of the United States of America which will notify the other High Contracting Parties thereof in the manner heretofore mentioned.

In witness whereof the above mentioned Plenipotentiaries have signed this treaty in English, Spanish, Portuguese, and French and hereunto affix their respective seals.

Done at the city of Washington, on this fifth day of January, 1929.

[Then follow the signatures of the plenipotentiaries. Peru, Haiti, Brazil, Panama, Nicaragua, Cuba, and the United States sign without reservations. The reservations made by the other states are given below. The signatures, which are the same throughout the treaties of this Annex, are omitted.]

(Translation)

La Delegación de Venezuela suscribe el presente Tratado de Arbitraje con las siguientes reservas:

Primera. Quedan excluidos de este Tratado los asuntos que, conforme a la Constitución o a las Leyes de Venezuela, corresponden a la jurisdicción de sus Tribunales; y, especialmente, los relativos a reclamaciones pecuniarias de extranjeros. En estos asuntos no procederá el arbitraje sino cuando habiéndose agotado por el reclamante los recursos legales, aparezca que ha habido denegación de justicia.

Segunda. Quedan igualmente excluidos los asuntos regidos por acuerdos internacionales en vigencia para esta fecha.

Chile no acepta Arbitraje obligatorio para las cuestiones que te-

The Delegation of Venezuela signs the present treaty of arbitration with the following reservations:

*First.* There shall be excepted from this Treaty those matters which, according to the Constitution or the laws of Venezuela, are under the jurisdiction of its courts; and especially those matters relating to pecuniary claims of foreigners. In such matters arbitration shall not be resorted to except when legal remedies having been exhausted by the claimant it shall appear that there has been a denial of justice.

*Second.* There shall also be excepted those matters controlled by international agreements now in force.

Chile does not accept obligatory arbitration for questions which

ngan origen en situaciones o hechos anteriores al presente Tratado, ni lo acepta tampoco para aquellas cuestiones, que, siendo de la competencia exclusiva de la jurisdicción nacional, pretendan las partes interesadas sustraerlas del conocimiento de las autoridades judiciales establecidas, salvo que dichas autoridades se negasen a resolver sobre cualquiera acción o excepción que alguna persona natural o jurídica extranjera les presente en la forma establecida por las leyes del país

La Delegación de Bolivia, de acuerdo con la doctrina y la política invariablemente sostenidas por Bolivia en el campo jurídico internacional, presta plena adhesión y suscribe el Tratado General de Arbitraje Inter Americano que han de sancionar las Repúblicas de América, formulando las siguientes expresas reservas

*Primera* Podrán exceptuarse de las estipulaciones del presente Convenio las cuestiones emergentes de hechos o de convenciones anteriores a la adhesión del pacto indicado así como las que de conformidad con el Derecho Internacional corresponden a la competencia exclusiva del Estado

*Segunda* Queda igualmente entendido que para someterse al arbitraje una controversia o litigio territorial, debe previamente determinarse en el compromiso la zona sobre que versará dicho arbitraje

Voto por la afirmativa el Tratado de Arbitraje, con la reserva formulada por la Delegación del Uruguay en la Quinta Conferencia Panamericana, propiciando el Arbitraje amplio, y en la inteligencia de que sólo procede el arbitraje en

have their origin in situations or acts antedating the present treaty nor does it accept obligatory arbitration for those questions which, being under the exclusive competency of the national jurisdiction, the interested parties claim the right to withdraw from the cognizance of the established judicial authorities, unless said authorities decline to pass judgment on any action or exception which any natural or juridical foreign person may present to them in the form established by the laws of the country

The Delegation of Bolivia, in accordance with the doctrine and policy invariably maintained by Bolivia in the field of international jurisprudence, gives full adherence to and signs the General Treaty of Inter American Arbitration which the Republics of America are to sanction, formulating the following express reservations

*First* There may be excepted from the provisions of the present agreement, questions arising from acts occurring or conventions concluded before the said treaty goes into effect, as well as those which in conformity with international law are under the exclusive jurisdiction of the state

*Second* It is also understood that, for the submission to arbitration of a territorial controversy or dispute, the zone to which the said arbitration is to apply must be previously determined in the arbitral agreement

I vote in favor of the Treaty of Arbitration, with the reservation formulated by the Delegation of Uruguay at the Fifth Pan American Conference, favoring broad arbitration, and with the understanding that arbitration will be

caso de denegación de justicia, cuando los tribunales nacionales tienen competencia, según su propia legislación

resorted to only in case of denial of justice, when the national tribunals have jurisdiction, according to the legislation of their own country

#### Reservas de Costa Rica

(a) Las obligaciones contraídas en este Tratado no anulan, abrogan ni restringen los convenios vigentes de arbitraje que existan ya entre Costa Rica y otra u otras de las altas partes contratantes y no implican arbitraje desconocimiento o rediscusión de cuestiones que hayan sido ya resueltas por fallos arbitrales

(b) Las obligaciones contraídas en este Tratado no implican el arbitraje de sentencias dictadas por los Tribunales de Costa Rica en juicios civiles que les sean sometidos y respecto de los cuales las partes interesadas hayan reconocido la competencia de dichos Tribunales

La Delegación de Honduras al firmar el presente Tratado formula expresa reserva haciendo constar que sus disposiciones no sean aplicables a los asuntos o controversias internacionales pendientes ni a los que se promuevan en lo sucesivo sobre hechos anteriores a la fecha en que dicho Tratado entre en vigor

La Delegación de Guatemala hace las siguientes reservas

1 Para someter a arbitraje cualesquiera cuestiones relativas a los límites de la Nación deberá preceder, en cada caso la aprobación de la Asamblea Legislativa de conformidad con la Constitución de la República

2 Las disposiciones de la presente Convención no alteran ni

#### Reservations of Costa Rica

(a) The obligations contracted under this Treaty do not annul, abrogate, or restrict the arbitration conventions which are now in force between Costa Rica and another or others of the high contracting parties and do not involve arbitration, disavowal, or renewed discussion of questions which may have already been settled by arbitral awards

(b) The obligations contracted under this Treaty do not involve the arbitration of judgments handed down by the courts of Costa Rica in civil cases which may be submitted to them and with regard to which the interested parties have recognized the jurisdiction of said courts

The Delegation of Honduras in signing the present Treaty, formulates an express reservation making it a matter of record that the provisions thereof shall not be applicable to pending international questions or controversies or to those which may arise in the future relative to acts prior to the date on which the said Treaty goes into effect

The Delegation of Guatemala makes the following reservations

1 In order to submit to arbitration any question relating to the boundaries of the nation, the approval of the Legislative Assembly must first be given in each case, in conformity with the Constitution of the Republic

2 The provisions of the present Convention do not alter or modify

modifican los convenios y tratados celebrados con anterioridad por la República de Guatemala.

La Delegación del Ecuador, siguiendo instrucciones de su Gobierno, reserva de la jurisdicción del arbitraje obligatorio convenido en el presente tratado:

1° Las cuestiones actualmente regidas por convenios o tratados vigentes;

2° Las que surgieren por causas anteriores o provinieren de hechos preexistentes a la firma de este tratado,

3° Las reclamaciones pecuniarias de extranjeros que no hubiesen agotado previamente los tribunales de justicia del país, entendiendo que tal es el espíritu que informó y tal el alcance que el Gobierno ecuatoriano ha dado siempre a la Convención de Buenos Aires de 11 de Agosto de 1910.

La Delegación de Colombia suscribe la anterior Convención con las dos siguientes declaraciones o reservas:

*Primera:* Las obligaciones que por ella contraiga la República de Colombia se refieren a las diferencias que surgieren de hechos posteriores a la ratificación de la Convención;

*Segunda:* A menos que se trate de un caso de denegación de justicia, el arbitraje previsto en esta Convención no es aplicable a las cuestiones que se hayan originado o se originaren entre un ciudadano, una sociedad o una corporación de una de las Partes y el otro Estado contratante cuando los Jueces o Tribunales de este último Estado son, de acuerdo con su legislación, competentes para resolver la controversia.

the conventions and treaties previously entered into by the Republic of Guatemala.

The Delegation of Ecuador, pursuant to instructions of its Government, reserves from the jurisdiction of the obligatory arbitration agreed upon in the present Treaty:

1. Questions at present governed by conventions or treaties now in effect;

2. Those which may arise from previous causes or may result from acts preceding the signature of this treaty,

3. Pecuniary claims of foreigners who may not have previously exhausted all legal remedies before the courts of justice of the country, it being understood that such is the interpretation and the extent of the application which the Government of Ecuador has always given to the Buenos Aires Convention of August 11, 1910.

The Delegation of Colombia signs the foregoing Convention with the following two declarations or reservations:

*First.* The obligations which the Republic of Colombia may contract thereby refer to the differences which may arise from acts subsequent to the ratification of the Convention;

*Second.* Except in the case of a denial of justice, the arbitration provided for in this convention is not applicable to the questions which may have arisen or which may arise between a citizen, an association or a corporation of one of the parties and the other contracting state when the judges or courts of the latter state are, in accordance with its legislation, competent to settle the controversy.

## Reserva de la Delegación del Paraguay

Suscribo este tratado con la reserva de que el Paraguay excluye de su aplicación las cuestiones que afectan directa o indirectamente la integridad del territorio nacional y no sean meramente de fronteras o de límites

## Reserva mexicana

México hace la reserva de que las diferencias que caigan bajo la jurisdicción de los tribunales, no serán objeto del procedimiento previsto por la Convención, sino por denegación de justicia, y hasta después que la sentencia dictada por la autoridad nacional competente haya pasado a la categoría de cosa juzgada

La Delegación de El Salvador a la Conferencia de Conciliación y Arbitraje reunida en Washington, acepta y suscribe el Tratado General de Arbitraje Inter Americano celebrado el día de hoy por dicha Conferencia, con las reservas o restricciones siguientes

1ª Después de las palabras del inciso 1º del Art 1º en que se dice "*en virtud de un Tratado o por otra causa*" deben agregarse éstas " *posterior a la presente convención* " Continúa el artículo sin otra variación

2ª El inciso A) del Art 2º lo acepta la Delegación sin las palabras finales que dicen " *y que no estén regidas por el Derecho Inter nacional,* " las que deben tenerse como suprimidas

3ª No quedan comprendidas en este Tratado las controversias o diferencias, sobre puntos o cuestiones que, según la Constitución Política de El Salvador, no deben someterse al Arbitraje, y

## Reservation of the Delegation of Paraguay

I sign this treaty with the reservation that Paraguay excludes from its application questions which directly or indirectly affect the integrity of the national territory and are not merely questions of frontiers or boundaries

## Mexican Reservation

Mexico makes the reservation that differences, which fall under the jurisdiction of the courts, shall not form a subject of the procedure provided for by the Convention, except in case of denial of justice, and until after the judgment passed by the competent national authority has been placed in the class of *res judicata*

The Delegation of El Salvador to the Conference on Conciliation and Arbitration assembled in Washington accepts and signs the General Treaty of Inter American Arbitration concluded this day by said Conference, with the following reservations or restrictions

1 After the words of paragraph 1 of Article 1 reading 'under treaty or otherwise,' the following words are to be added 'subsequent to the present Convention' The article continues without any other modification

2 Paragraph (a) of Article 2 is accepted by the Delegation without the final words which read 'and are not controlled by international law,' which should be considered as eliminated

3 This Treaty does not include controversies or differences with regard to points or questions which, according to the Political Constitution of El Salvador, must not be submitted to arbitration, and



4ª. Las reclamaciones pecuniarias contra la Nación, serán decididas por sus jueces y tribunales por corresponder a ellos el conocimiento y sólo se recurrirá al Arbitraje Internacional en los casos previstos por la Constitución y leyes Salvadoreñas, esto es por denegación de justicia o retardo anormal en administrarla.

La República Dominicana al suscribir el Tratado General de Arbitraje Inter-americano lo hace en la inteligencia de que las controversias relativas a cuestiones que son de la competencia de sus tribunales no serán deferidas a la jurisdicción arbitral sino de acuerdo con los principios del Derecho Internacional.

4. Pecuniary claims against the nation shall be decided by its judges and courts, since they have jurisdiction thereof, and recourse shall be had to international arbitration only in the cases provided in the Constitution and laws of El Salvador, that is in cases of denial of justice or unusual delay in the administration thereof.

The Dominican Republic, in signing the General Treaty of Inter-American Arbitration, does so with the understanding that controversies relating to questions which are under the jurisdiction of its courts shall not be referred to arbitral jurisdiction except in accordance with the principles of international law.

### C. — PROTOCOL OF PROGRESSIVE ARBITRATION

Original text<sup>1</sup> from *The International Conference of American States on Conciliation and Arbitration, Washington, December 10, 1928-January 5, 1929* (Washington, 1929), pp 52-54

Whereas, a General Treaty of Inter-American Arbitration has this day been signed at Washington by Plenipotentiaries of the Governments of Venezuela, Chile, Bolivia, Uruguay, Costa Rica, Perú, Honduras, Guatemala, Haiti, Ecuador, Colombia, Brazil, Panama, Paraguay, Nicaragua, Mexico, El Salvador, the Dominican Republic, Cuba, and the United States of America;

Whereas, that treaty by its terms excepts certain controversies from the stipulations thereof;

Whereas, by means of reservations attached to the treaty at the time of signing, ratifying or adhering, certain other controversies have been or may be also excepted from the stipulations of the treaty or reserved from the operation thereof,

Whereas, it is deemed desirable to establish a procedure whereby such exceptions or reservations may from time to time be abandoned in whole or in part by the Parties to said treaty, thus progressively extending the field of arbitration;

The Governments named above have agreed as follows:

ARTICLE 1. Any Party to the General Treaty of Inter-American Arbitration signed at Washington the fifth day of January, 1929, may at any time deposit with the Department of State of the United States of

<sup>1</sup> The Spanish, Portuguese, and French texts are also authentic.

America an appropriate instrument evidencing that it has abandoned in whole or in part the exceptions from arbitration stipulated in the said treaty or the reservation or reservations attached by it thereto.

ART 2. A certified copy of each instrument deposited with the Department of State of the United States of America pursuant to the provisions of Article 1 of this protocol shall be transmitted by the said Department through diplomatic channels to every other Party to the above-mentioned General Treaty of Inter-American Arbitration.

In witness whereof the above-mentioned Plenipotentiaries have signed this protocol in English, Spanish, Portuguese, and French and hereunto affix their respective seals.

Done at the city of Washington, on this fifth day of January, 1929.

[Signatures follow as in Annex V, a.]



**PART II**

**ANALYSIS OF THE TREATIES**



## CHAPTER I

### SYSTEMS OF PACIFIC SETTLEMENT INTRODUCED BY POST-WAR TREATIES

#### EXTENSION OF THE APPLICATION OF PACIFIC PROCEDURE

PRE-WAR treaties for the pacific settlement of international disputes usually provided pacific procedure only for a certain class of disputes, and excluded from the application of their provisions a considerable number of international controversies. Today, only a few states have not yet adopted the principle that all international disputes should be submitted to some kind of pacific procedure.

Since the coming into force of the Covenant of the League of Nations on January 10, 1920, the members of the League are under obligation to submit to pacific procedure any dispute likely to lead to a rupture, and in no case to resort to war until three months after a report has been rendered by the Council or Assembly of the League, or a decision has been given by an international tribunal.

The United States of America, although not a member of the League, has accepted a similar obligation toward a great number of states in a series of special treaties concluded during and after the war.<sup>1</sup> These treaties contain the provision that any dispute, of whatever nature, shall, when ordinary diplomatic proceedings have failed, and provided the parties do not have recourse to adjudication, be submitted to a process of investigation, and that the parties will not declare war, or begin hostilities, before this pacific procedure has been terminated.

#### JUSTICIABLE AND NON-JUSTICIABLE DISPUTES

The pacific methods provided by the post-war treaties are either advisory or judicial in character. While certain post-war treaties provide that the two procedures shall be applied successively to one and the same dispute, others differentiate between disputes which should be dealt with exclusively by an advisory procedure and disputes which should be submitted to judicial settlement.<sup>2</sup> In these latter treaties, it was necessary to define and formulate the distinction between justiciable and non-justiciable disputes.

<sup>1</sup> See list of treaties of investigation concluded by the United States, Appendix A.

<sup>2</sup> For literature see *infra*, Bibliography, section V (b), under Brown, Hedges, Hostie.

1. *Disputes of a Legal Nature.* A number of post-war treaties have followed the old formula of the Anglo-French Arbitration Treaty of 1903<sup>3</sup> in defining disputes which are justiciable as "differences which may arise of a legal nature or relating to the interpretation of treaties" (cf. United States-Liberia, 1926, No. 60). The arbitration treaty between Japan and Switzerland concluded in 1924 (No. 33) omits the words "or relating to the interpretation of treaties," no doubt including such controversies within its general expression, "disputes of a legal nature." To decide whether or not a dispute is of a legal nature according to such agreements is in itself a question of the interpretation of a treaty and is therefore justiciable. Some treaties state this expressly in the words: "In the event of a dispute as to whether the case falls within one of the above-mentioned categories of disputes, this *a priori* question shall be submitted to arbitration" (cf. Hungary-Switzerland, 1924, No. 19, Art. 10).

It might, however, prove extremely difficult for a tribunal to decide whether a dispute is "of a legal nature"; for an international dispute might easily be of a complex character and might include, besides differences in regard to legal questions, a number of other elements.<sup>4</sup> In certain cases the solution of the legal problems connected with the dispute might remove the other difficulties as well. But it might also happen that the legal questions connected with a controversy were of secondary importance, and that their settlement would provide no solution to the conflict as a whole. In view of such a possibility, the treaty between Germany and Switzerland of 1921 (No. 7) introduced the conception of the preponderance of political elements, and stated that the dispute ceases to be justiciable "if the matter is of a preponderantly political significance, and for this reason is not adapted to a settlement based exclusively on legal principles" (Art. 4, par. 2).<sup>5</sup> According to this conception the dispute becomes justiciable if it is *mainly* of a legal nature.<sup>6</sup>

2. *Justiciable Disputes Set Forth in a List of Four Categories.* An important contribution toward the clarification of the conception of

<sup>3</sup> See Bureau International de la Cour Permanente d'Arbitrage, *Traité généraux d'arbitrage communiqués*, première série (La Haye, 1911), p. 32.

<sup>4</sup> For literature on the difference between legal and non-legal questions see *infra*, Bibliography, section V (b), under Balch, Borchard, Fenwick, Hudson, Wright, Giraud, Mulder.

<sup>5</sup> This provision of the German-Swiss treaty was abrogated in 1928. Cf. Protocol annexed to No. 7.

<sup>6</sup> The view that a controversy in regard to legal questions ceases to be justiciable as soon as the political element becomes preponderant was also at the bottom of the well known reservation of vital interests, honor, and independence, generally contained in pre-war treaties.

the justiciable dispute was made by Article 13 of the Covenant of the League of Nations, and Article 36 of the Statute of the Permanent Court of International Justice. These provisions define justiciable controversies as disputes concerning (a) the interpretation of a treaty; (b) any question of international law; (c) the existence of any fact which, if established, would constitute a breach of an international obligation; and (d) the nature or extent of the reparation to be made for the breach of an international obligation.<sup>7</sup>

The third category of disputes referred to in this list, dealing with the application of legal rules to facts, is of particular interest. It is obvious that in regard to a claim based on an alleged violation of an international obligation, it is necessary not only to decide as to the existence of such obligation, but also to investigate whether a violation has actually taken place. This requires an interpretation of facts, and such disputes as to facts have been explicitly made justiciable by Article 36 of the Statute. The Permanent Court was also, by virtue of the same provision, given competence to decide disputes concerning the extent and form of reparation. The new formula of the Covenant and the Statute represents a distinct advance as compared with the vague references in former treaties to "the legal nature" of a dispute, by the fact that it offers four objective tests for the definition of a justiciable dispute.

3. *Disputes concerning Rights in the Locarno Formula.* The Locarno treaties made a further contribution in this field. Their definition of the justiciable dispute is as follows: "All disputes of whatever kind between [the High Contracting Parties] with regard to which the Parties make a claim of right one against the other" (Art. 1, Nos. 45, 46, 47, and 48). The Locarno treaties add that the disputes thus referred to include in particular those mentioned in Article 13 of the Covenant of the League, which are the same as those enumerated in Article 36 of the Statute discussed above. But the formula goes further by making justiciable any dispute involving a claim of right, even if it should not fall within the four categories mentioned in Article 36. According to the Locarno treaties, before the parties can resort to judicial procedure, they are forced to formulate their dispute as a claim of right. This means that they must consider whether or not their demands have a legal basis. Unless the dispute between the parties can be presented as a conflict in regard to rights, it is not justiciable. Such a formula has a two-

<sup>7</sup> A number of post-war treaties have adopted this method of enumerating a list of four classes of justiciable disputes, and their provisions vary only slightly from the formula of Article 36 of the Statute. Cf., e. g., Germany-Sweden, 1924, No. 28, Art. 2.



fold advantage. First, the actual formulation of the dispute by the contending parties itself determines whether the case is justiciable or not. Secondly, the formula forces the disputants to make a thorough analysis of the subject of the dispute, in order to ascertain how far their claims have a legal basis and how far their dispute is purely a conflict of interests not protected by rights. Such a preliminary analysis must inevitably tend to clear the situation, and may in itself facilitate the pacific settlement of the conflict.

It is conceivable that the parties, as the result of such an analysis, may be induced to submit only certain elements of their dispute to judicial procedure, reserving the settlement of the rest of the matter at issue for later direct negotiations. This was done, for instance, in the *compromis* of October 30, 1924, between France and Switzerland concerning the Free Zones of Upper Savoy and the District of Gex.<sup>8</sup> By this agreement, a difference of opinion in regard to rights, which formed one part of the controversy, was submitted to the Permanent Court of International Justice, while the parties reserved the settlement of their remaining differences for later direct negotiations after certain legal points had been cleared up by the Court.<sup>9</sup>

The definition of the justiciable dispute proposed by the Locarno treaties has found its way into numerous other agreements concluded since 1925.<sup>10</sup>

4. *Disputes concerning Rights in the American Formula.* The United States, in beginning a new series of arbitration treaties in 1928, revived a formula contained in the Franco-American and Anglo-American arbitration treaties of 1911, which were, however, never ratified by the government of the United States.<sup>11</sup> This definition of justiciable disputes reads: "All differences relating to international matters<sup>12</sup> in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise . . . and which are justiciable in

<sup>8</sup> Cf. Message of the Swiss Federal Council, November 25, 1924, No. 1911, dealing with this question and giving the original text of the *compromis* (Switzerland, *Feuille fédérale*, 1924, III, 981).

<sup>9</sup> In case of failure of the fresh negotiations, the Court is asked, in Article 2 of the *compromis*, to decide the whole dispute.

<sup>10</sup> E. g., treaty between Czechoslovakia and Sweden of 1926 (No. 53). The wording of the treaty between Belgium and Portugal of 1927 (No. 84, Art. 1) is slightly different: "All disputes concerning a right, of whatever nature it may be, alleged by one of the contracting parties and contested by the other, and, in particular, the disputes mentioned in Article 13 of the Covenant of the League of Nations, which it has not been possible to settle in a reasonable time by ordinary diplomatic procedure, shall be submitted for judgment to the Permanent Court of International Justice."

<sup>11</sup> Cf. 62d Cong., 2d sess., Sen. Doc. No. 476 (Cong. Docs., vol. 6176).

<sup>12</sup> Concerning "differences relating to international matters," see *infra*, p. 997.

their nature by reason of being susceptible of decision by the application of the principles of law or equity" (e. g., United States-France, 1928, No. 95, Art. 2). Like the Locarno formula, this provision requires that one party shall make a claim of right against the other in order that the dispute may be justiciable. The American treaties add that the case must, at the same time, be susceptible of decision by the application of the principles of law or equity. Accordingly, the decision as to the claim of right made by one party against the other must be based on the principles of international law.<sup>13</sup> This same statement is also contained in the preamble of the German-Czechoslovakian and German-Polish Locarno treaties (Nos. 46 and 48) in the phrase: "declaring that respect for the rights established by treaties or resulting from the law of nations is obligatory for international tribunals."

The American and Locarno treaties provide for a judicial regulation of those disputes only in which the parties base their claim on legal principles. Other disputes, according to this formula, cannot be brought before an international tribunal.

5. *All Disputes Considered Justiciable.* A considerable number of post-war treaties have entirely abandoned the distinction between justiciable and non-justiciable disputes and provide for the submission of any kind of controversy to judicial procedure. Thus, for instance, the treaty between France and Luxemburg of 1927 (No. 90) states: "All disputes between the High Contracting Parties, of whatever origin, which it has not been possible to settle amicably by ordinary diplomatic procedure shall be submitted for judgment either to the arbitral tribunal or to the Permanent Court of International Justice" (Art. 2). The same principle of submitting any kind of interstate dispute to judicial procedure was already laid down in the treaty between Italy and Switzerland of 1924 (No. 29). When a dispute cannot be settled by the application of law, the latter treaty provides expressly that the judges shall decide the question *ex aequo et bono* (Art. 15). By making the tribunal competent to settle a dispute which "is not of a juridical nature" *ex aequo et bono*, any possible gap in the rules necessary for the adjudication of disputes has been eliminated and the way cleared for the judicial settlement of all international disputes.

In reviewing this development, it should be remembered that justiciable controversies were originally referred to as disputes of a

<sup>13</sup> For the meaning of "principles of international law," "principles of law or equity," "respect for rights," cf. *infra*, pp. 1048-1053.

legal nature. Then treaties began to enumerate four categories of disputes, generally regarded as justiciable. A further development was the replacement of these objective tests by a subjective criterion. The formulation of the dispute by the parties was made decisive, and treaties began to contain the provision that a dispute shall be justiciable whenever one party makes a claim of right against the other. Finally, any distinction between justiciable and non-justiciable disputes has been abandoned, and a judicial procedure for all possible disputes between governments has been provided.

#### METHODS OF PACIFIC SETTLEMENT PROVIDED FOR BY THE TREATIES

The treaties provide for four different methods of pacific settlement. One procedure consists in submitting the controversy to an international commission, which will proceed to make an impartial investigation and an analysis of the dispute. Such an elucidation of the contentions of the parties will facilitate subsequent negotiations of the disputants in order to arrive at a pacific settlement. This method will hereafter be called the *procedure of investigation*. The duty and the powers of the international commission are enlarged under the second method, hereafter referred to as the *procedure of conciliation*. This method consists not merely of an investigation and an elucidation of the case, but includes proposals of the international commission for a settlement and a definite attempt by the commissioners to bring the parties to an agreement.

The procedure of investigation and the procedure of conciliation tend toward a solution of the controversy by an explicit agreement of the parties to the terms of settlement. Therefore they cannot be regarded as guaranteeing absolutely a pacific solution as in the case of the methods of arbitration and compulsory adjudication. These procedures not only propose, but impose, a pacific settlement upon the parties through the binding decision of an international tribunal. They are therefore fundamentally different from the methods of investigation or conciliation, these being purely advisory procedures, while arbitration and compulsory adjudication constitute a judicial settlement of international disputes.<sup>14</sup>

Within the field of judicial settlement it seems useful to distinguish between an older and a more recent method to secure the decision of a tribunal. Since the establishment of the Permanent Court of International Justice in 1922, it has been made possible for a gov-

<sup>14</sup> Cf. J. B. Moore, *Digest of International Law*, VII, sec. 1069.

ernment to open a judicial procedure before this Court by a unilateral request and thus to compel the opponent to an adjudication of the dispute. This method of providing for the submission of disputes to a permanent international court at the simple request of one party, either from the outset or at a later stage of the controversy, is defined hereafter as the *procedure of compulsory adjudication*. All other procedures securing a decision of an international tribunal will be referred to as *procedures of arbitration*.

#### THE ELEVEN DIFFERENT SYSTEMS OF PACIFIC SETTLEMENT INTRODUCED BY THE TREATIES

##### 1. SYSTEM A. — *Arbitration of Legal Disputes*

A few post-war treaties provide that only a certain class of disputes shall be submitted to pacific procedure, and state that "differences of a legal nature or relating to the interpretation of treaties" shall be referred to an arbitral tribunal (United States-Liberia, 1926, No. 60, Art. 1). In order to insure the exclusion of all disputes which might involve highly political elements, the treaty between the United States of America and Liberia adds: "provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two Contracting States, and do not concern the interests of third Parties."

Such arrangements tend to exclude from pacific procedure a considerable group of disputes for which no pacific settlement is provided. The characteristic of this system, which was inaugurated by the Anglo-French arbitration treaty of 1903,<sup>15</sup> is that only controversies of a preponderantly legal nature will be submitted to an arbitral tribunal. Only a few treaties concluded since the Armistice have adopted this pre-war formula. As a general rule it has been abandoned as antiquated.

##### 2. SYSTEM B. — *Compulsory Adjudication of Legal Disputes*

The treaty concluded by Great Britain and Siam in 1925 (No. 50) represents an advance upon the type of treaty just discussed. The signatories again adopted the principle that only disputes of a legal nature should be submitted to judicial settlement, but they added: "In the absence of contrary agreement, the differences of a legal nature shall at the request of either party be referred to the Per-

<sup>15</sup> *Traité général d'arbitrage communiqué au Bureau International de la Cour Permanente d'Arbitrage*, première série (The Hague, 1911), p. 32.

manent Court of International Justice." Under this system either party can, upon a simple and unilateral request, bring the dispute before an international court which has been established in advance. The guaranties of a pacific settlement are strengthened by the fact that the arbitral method is replaced by a procedure of compulsory adjudication. This treaty between Siam and Great Britain is also particularly interesting for the reason that it is the first general arbitration treaty in which Great Britain accepted the compulsory jurisdiction of the Permanent Court of International Justice.

The principle of compulsory adjudication of legal disputes is also expressed in the Optional Clause of the Statute of the Permanent Court of International Justice (cf. No. 129). The governments adopting this provision in relation to each other declare "that they recognise as compulsory, *ipso facto* and without special agreement, the jurisdiction of the Court in all or any classes of legal disputes" enumerated in Article 36 of the Statute. The Optional Clause is, therefore, to be classed under this system. Its text represents an advance over the formula of the agreement between Great Britain and Siam, inasmuch as legal disputes are better defined and the reservation of vital interests, independence, honor, and the interests of third parties, still attached to the Anglo-Siamese treaty, is omitted.

### 3. SYSTEM C. — *Arbitration of All Disputes*

The Latin American States favor a system of pacific settlement defined in the following terms: "The High Contracting Parties undertake to submit to arbitration all disputes of whatever nature which, for any cause whatsoever, may arise between them, including controversies relative to the interpretation or execution of this treaty, whenever it has proved impossible to settle them by direct negotiation" (cf., e. g., Uruguay-Venezuela, 1923, No. 12). In some cases this formula of all-embracing arbitration is restricted by the reservation as to honor, independence, and vital interests.<sup>16</sup> In some other treaties the principle is restricted by the sentence: "However, each of the High Contracting Parties shall remain free to decline arbitration for any dispute which in its own opinion refers to questions affecting the principles of its Constitution."<sup>17</sup>

On the European continent only one arbitration treaty of this type appears to have been concluded since the World War. The treaty between Austria and Hungary of 1923 (No. 14) provides that

<sup>16</sup> Cf., e. g., Peru-Venezuela, 1923, No. 13.

<sup>17</sup> Cf., e. g., Argentine-Switzerland, 1924, No. 32.

any "dispute, no matter what its nature may be, shall be submitted . . . to an arbitrator or arbitrators" if it has been impossible to settle the controversy "by means of a friendly understanding." Not a single reservation is made in this agreement, and, in order to insure that any kind of dispute between the signatories shall be covered by the treaty, Article 2 adds: "The foregoing provisions shall also apply to disputes arising out of circumstances which occurred before the conclusion of the present agreement."

4. SYSTEM D. — *Arbitration of Legal Disputes and Investigation of All Other Disputes*

In 1913, William J. Bryan, Secretary of State of the United States, proposed to complete the then existing arbitration system of his government by concluding a new series of treaties instituting a process of investigation for all disputes not submitted to judicial settlement. According to this system, legal disputes — or, in the terminology of the latest United States treaties, "claims of right" — are submitted to an arbitral procedure, while all non-justiciable controversies are referred to a commission for investigation and report. The system is all-embracing in the sense that an attempt at pacific settlement is obligatory in the case of any dispute whatsoever. The nature of the controversy determines whether it has to be submitted to an arbitral tribunal or to a process of investigation. This latter method is only advisory and does not guarantee the settlement of the controversy. If it is impossible to bring the parties to an agreement, the controversy remains unsettled. No provision is made under this system for cases in which the method of investigation is not successful.

The relationship between the United States and a number of other Powers is now based upon the principles of this system, according to which any dispute must be submitted to the one or the other form of procedure. In the new treaty between France and the United States of 1928 (No. 95) the relation of the two methods is expressed as follows in Article 1: "Any disputes arising between the Government of the United States of America and the Government of the French Republic, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the High Contracting Parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report, as prescribed in the treaty signed at Washington, September 15, 1914, to the Permanent International Commission constituted pursuant thereto."

5. SYSTEM E. — *Arbitration of Legal Disputes and Conciliation in All Other Disputes*

When Germany and Switzerland drafted their first post-war treaty for the pacific settlement of international disputes, they provided an arbitral procedure for legal disputes and instituted a procedure of conciliation for non-justiciable controversies. The advisory procedure for non-justiciable disputes was improved in this treaty by the replacement of the method of investigation by a procedure of conciliation. Under this treaty the Commission is not only asked to investigate and report, but is also charged to submit proposals for a settlement of the dispute (No. 7, Art. 15). Such an enlargement of the competence of the International Commission had already been made in the treaty between Sweden and Chile of 1920 (No. 5, Art. 2), and since then the method of investigation has generally been replaced by a procedure of conciliation in treaties concluded by European Powers.

The German-Swiss treaty of 1921 served as a model for a number of later treaties, and the system of arbitration of legal disputes, and of conciliation in all other controversies, was followed by the German government during a number of years. Since Germany has become a member of the League of Nations, and has ratified the Optional Clause of the Statute of the Permanent Court of International Justice, the system of arbitration and conciliation which she has set up with several other governments has been changed, and is now based on the principles of System G, set forth below.

The Conference on Central American affairs held in Washington in 1922-23 drafted a Convention of Arbitration<sup>18</sup> and a Convention of Conciliation<sup>19</sup> which must be discussed at this point. The principle of these conventions is, that the dispute shall be submitted to one or the other of these methods. Excluded from the application of either system, however, are controversies affecting the sovereign and independent existence of the signatories. Any other dispute, states Article 1 of the Arbitration Convention, shall be submitted to the International Central American Tribunal. Under certain circumstances, in "a controversy originating in some divergence or difference of opinion regarding questions of fact, relative to failure to comply with the provisions of any of the treaties or conventions" between the parties (see No. 10, Art. 1), the case may be submitted to a procedure of conciliation. The reservations made in regard to the method of conciliation are more restrictive than those regarding the

<sup>18</sup> Cf. No. 9.

<sup>19</sup> Cf. No. 10.

arbitration procedure. This is a curious fact, because, as a general rule, conciliation procedure is surrounded by fewer reservations than resort to an arbitral tribunal. To include in a conciliation treaty a reservation as to independence, honor, and vital interests is furthermore quite exceptional. Although the treaties signed at the Central American Conference occupy a singular position and exclude a group of highly political disputes from any kind of pacific procedure, they may be included in the present category because they adopt the principle of submitting a certain class of disputes to conciliation and another class to arbitration.

6. SYSTEM F. — *Compulsory Adjudication of Claims of Right, and Conciliation in All Other Disputes*

The Locarno treaties of 1925 divide possible disputes between the parties into two classes: on the one hand the so-called claims of right, and on the other all remaining disputes. Those of the first class are submitted to judicial settlement. If the parties do not resort to arbitral procedure, the treaties provide that one or the other of the disputants, after a month's notice, "may bring the dispute directly before the Permanent Court of International Justice by means of an application" (cf., e. g., No. 45, Art. 16).

Thus the governments of Czechoslovakia, France, Germany, and Poland subscribed at Locarno, for the first time, to a procedure of compulsory adjudication in regard to claims of right.<sup>20</sup>

For all other controversies not settled by judicial methods, the Locarno treaties provide a procedure of conciliation. If the method of conciliation should not be successful in settling a non-justiciable dispute, the treaties provide that "the question shall at the request of either party be brought before the Council of the League of Nations, which shall deal with it in accordance with Article 15 of the Covenant of the League" (cf., e. g., No. 45, Art. 18). Such a resort to the Council of the League of Nations also remains open to League members, even if treaties of the above type do not especially mention it.

The Locarno treaties have had a considerable influence on the drafting of later conciliation and arbitration treaties.<sup>21</sup> The same system of compulsory adjudication for legal disputes and conciliation in all other controversies results from the adoption of the

<sup>20</sup> Belgium, which was also a party to the Locarno agreements, had already adopted this principle a few weeks earlier by signing the Optional Clause on September 25, 1925.

<sup>21</sup> Cf., e. g., France-Rumania, 1926 (No. 69), and Germany-Lithuania, 1928 (No. 94).



Optional Clause of the Permanent Court of International Justice, together with the conclusion of a treaty of conciliation for non-justiciable disputes, as, for example, by Switzerland and the Netherlands (cf. Nos. 52 and 129).

7. SYSTEM G.—*Compulsory Adjudication of Legal Disputes,  
and Conciliation Followed by Arbitration in All  
Other Disputes*

The system of the Locarno treaties was further developed in the agreements concluded between the Scandinavian governments. According to their treaties for the pacific settlement of international disputes, all legal disputes are submitted to compulsory adjudication by the Permanent Court of International Justice. Other disputes are referred to a Commission of Conciliation, and if the dispute cannot be settled by this method, it is submitted to a special arbitral tribunal to be constituted for each case. In this way the Scandinavian system provides for a judicial regulation of any kind of dispute, submitting legal and non-legal controversies to different forms of procedure. While legal disputes are directly referred to the Permanent Court of International Justice, non-legal disputes must first be submitted to conciliation and are thereafter referred to an arbitral tribunal. Sweden, Norway, Denmark, and Finland introduced this system in 1926 (cf. Nos. 51, 54, 55, 56, 57, and 59), after having signed the Optional Clause (cf. No. 129), and after having concluded six treaties of conciliation in 1924 (cf. Nos. 22-27).

The example set by the Scandinavian governments has been followed by a number of later treaties.<sup>22</sup> Also the general act adopted by the Ninth Assembly of the League of Nations in 1928, in providing for the judicial settlement of any kind of dispute, institutes compulsory adjudication in regard to claims of right, and conciliation followed by arbitral procedure in the case of all other controversies.

8. SYSTEM H.—*Conciliation Followed by Arbitration  
in All Disputes*

The Polish Government, in negotiating its post-war treaties for pacific settlement, advocated a system by which any kind of dispute<sup>23</sup> between the parties must first be submitted to a procedure

<sup>22</sup> Cf., e. g., the treaties concluded by Belgium in 1926-27.

<sup>23</sup> Some of the Polish treaties contain a restriction of this all-embracing principle. Thus the treaty between Poland and Switzerland contains the reservation that the treaty shall not apply to questions which, according to international law, fall within the

of conciliation before judicial methods can be resorted to. If the report drawn up by the Conciliation Commission is not accepted by the parties, the dispute will, in the second place, be submitted to an arbitral tribunal (cf., e. g., Denmark-Poland, No. 64). Under this system the procedures of conciliation and arbitration are no longer used alternatively for different kinds of disputes, but are used to complement each other.

9. SYSTEM I. — *Conciliation in All Disputes Followed by Compulsory Adjudication of Legal Disputes*

The treaties between Hungary and Switzerland (No. 19) and Hungary and Italy (No. 81) provide for conciliation procedure in any kind of dispute.<sup>24</sup> Should this method fail, the treaties refer legal disputes to compulsory adjudication. For all other controversies not settled by conciliation no provision is made. A resort to the Council of the League of Nations for the application of Article 15 of the Covenant would of course remain open in a case where a non-legal dispute had not been settled by the procedure of conciliation provided for.

The same system of conciliation for all kinds of disputes, followed by compulsory adjudication of legal disputes, is also in force between Norway and Switzerland, which have signed the Optional Clause (No. 129) and an all-embracing conciliation treaty in 1925 (No. 43).

10. SYSTEM J. — *Conciliation in All Disputes Followed by Compulsory Adjudication of Legal Disputes and Arbitration of Non-Legal Disputes*

The treaty concluded between Colombia and Switzerland in 1927 (No. 86) follows the general plan of the preceding system, with the improvement that it also provides for the judicial settlement of non-legal disputes. All disputes are first submitted to a procedure of conciliation. If this should prove unsuccessful, disputes of a legal nature can be brought before the Permanent Court of International Justice by means of a simple application, while for all other disputes arbitration procedure is obligatory.

exclusive competence of a State (No. 35, Art. 1). The treaty between Poland and Czechoslovakia of 1925 contains a reservation as to "questions regarding the territorial status of the Contracting Parties" (No. 39, Art. 1).

<sup>24</sup> The treaty between Italy and Hungary contains a reservation concerning disputes belonging to the past.

### 11. SYSTEM K. — *Conciliation Followed by Compulsory Adjudication in All Disputes*

In 1924, Italy and Switzerland signed a treaty (No. 29) which was at that moment hailed as an important step forward in the development of pacific procedure. This was the first post-war treaty to introduce the compulsory adjudication of non-legal as well as legal disputes. The treaty provided also that a dispute between the parties should first be submitted to a commission of conciliation, before judicial procedure was resorted to. The terms of this treaty are as follows:

The Contracting Parties . . . undertake to submit to a procedure of conciliation all disputes of any nature whatever which may arise between them, and which it may not have been possible to settle within a reasonable time by diplomacy. (Art. 1.)

If one of the parties does not accept the proposals of the Permanent Conciliation Commission, or does not announce its decision within the period prescribed in the report, either party may request that the dispute be submitted to the Permanent Court of International Justice. (Art. 15, par. 1.)

If the *compromis* is not drawn up within three months from the day on which one of the parties was requested to submit the matter for judicial settlement, either party may bring the question before the Court of Justice by a simple application. (Art. 16, par. 4.)

If in the opinion of the Court the case is not of a juridical nature, the parties agree that it shall be settled *ex aequo et bono*. (Art. 15, par. 2.)

This system embraces any possible dispute which may arise between the parties, and provides for the two most advanced methods of pacific settlement: conciliation and resort to the Permanent Court of International Justice upon the simple application of either party, combined with the obligation to submit the controversy first to a conciliatory procedure before resort to the Court.<sup>25</sup>

### 12. *Limited or Unlimited Pacific Settlement*

A glance at the table shows that Systems A and B provide pacific procedure for one group of controversies only, the so-called legal disputes. The scope of these systems is limited, while all other systems provide in principle for the submission of all disputes to pacific methods. It must be remembered, however, that not all treaties which adopt Systems C to K are absolutely all-embracing. Some treaties, while accepting such a system in principle, make

<sup>25</sup> This system has been followed by a number of later treaties. Cf., e. g., Denmark-Lithuania, No. 74; Chile-Italy, No. 78; Denmark-France, No. 70; Switzerland-Greece, No. 44; Spain-Switzerland, No. 63; Switzerland-Finland, No. 92.

TABLE V

COMPARISON OF THE ELEVEN SYSTEMS OF PACIFIC SETTLEMENT  
INTRODUCED BY THE TREATIES

With the help of the following table, which gives a summary of the forms of pacific procedure introduced by the treaties since the World War, the various systems of pacific settlement may be compared.

<p><b>SYSTEM A</b> (<i>Pre-war type</i>)</p> <p>Legal disputes</p> <p>↓</p> <p>Arbitration</p>	<p><b>SYSTEM B</b> (<i>Optional Clause</i>)</p> <p>Legal disputes</p> <p>↓</p> <p>Compulsory adjudication</p>	<p><b>SYSTEM C</b> (<i>Latin America</i>)</p> <p>All disputes</p> <p>↓</p> <p>Arbitration</p>	<p><b>SYSTEM D</b> (<i>United States treaties</i>)</p> <p>All disputes</p> <p>↓</p> <p>Claims of right ↓ Arbitration</p> <p>All other disputes ↓ Investigation</p>
<p><b>SYSTEM E</b> (<i>Early German treaties</i>)</p> <p>All disputes</p> <p>Four classes of legal disputes ↓ Arbitration</p> <p>All other disputes ↓ Conciliation</p>	<p><b>SYSTEM F</b> (<i>Locarno treaties</i>)</p> <p>All disputes</p> <p>Claims of right ↓ Compulsory adjudication</p> <p>All other disputes ↓ Conciliation</p>	<p><b>SYSTEM G</b> (<i>Scandinavian treaties</i>)</p> <p>All disputes</p> <p>Four classes of legal disputes ↓ Compulsory adjudication</p> <p>All other disputes ↓ Conciliation ↓ Arbitration</p>	
<p><b>SYSTEM H</b> (<i>Polish treaties</i>)*</p> <p>All disputes</p> <p>↓</p> <p>Conciliation</p> <p>↓</p> <p>Arbitration</p>	<p><b>SYSTEM I</b> (<i>Hungarian treaties</i>)</p> <p>All disputes</p> <p>↓</p> <p>Conciliation</p> <p>Four classes of legal disputes ↓ Compulsory adjudication</p> <p>All other disputes ↓ No judicial procedure</p>	<p><b>SYSTEM J</b> (<i>Colombian-Swiss treaty</i>)</p> <p>All disputes</p> <p>↓</p> <p>Conciliation</p> <p>Four classes of legal disputes ↓ Compulsory adjudication</p> <p>All other disputes ↓ Arbitration</p>	<p><b>SYSTEM K</b> (<i>Swiss-Italian treaty</i>)</p> <p>All disputes</p> <p>↓</p> <p>Conciliation</p> <p>↓</p> <p>Compulsory adjudication</p>

\* Some Polish treaties contain reservations excluding certain disputes from pacific settlement according to this system. Cf. note 23 above.

certain reservations to exclude some disputes from the application of the treaty provisions.<sup>26</sup> A considerable number of post-war agreements, however, do not exclude a single dispute from the application of pacific procedure. This is, for instance, the case in the relationship between members of the League of Nations. The Covenant of the League, however, does not provide for a final solution of any dispute whatsoever, although an attempt at a pacific settlement has been made compulsory in the case of any dispute likely to lead to a rupture. In order that a system shall guarantee a final solution of all controversies, it is necessary that it provide for resort to an international tribunal in all cases in which the advisory procedure has not been successful. This end has been achieved by treaties drafted according to Systems C, G, H, J, and K.

### 13. *Most Advanced Systems of Pacific Settlement*

If such treaties contain no reservations, they represent the most advanced systems of pacific settlement.<sup>27</sup> In particular, System G, introduced by the Scandinavian countries, and System K, formulated for the first time in the Swiss-Italian treaty of 1924, are the two outstanding models for an all-embracing and complete agreement. The Scandinavian system is based upon the distinction between legal and non-legal disputes, providing for the first group compulsory adjudication, and for the second group conciliation procedure followed by arbitration. This system was adopted by the Ninth Assembly of the League of Nations in the General Act for the Pacific Settlement of International Disputes. The Swiss-Italian model submits all disputes, without distinction, to conciliation procedure followed by compulsory adjudication of any controversy which has not been settled by conciliation.

### 14. *Relation of Advisory to Judicial Procedures*

(a). *Alternative Use.* — The relation between investigation and conciliation on the one hand, and arbitration and compulsory adjudication on the other, varies considerably in the treaties. Advisory procedure and judicial settlement are treated as alternative

<sup>26</sup> For an enumeration of the reservations made in the treaties, see *infra*, Chap. II.

<sup>27</sup> Examples of treaties of this type, which contain no loopholes and provide for a final solution of any dispute whatsoever, are: (1) Austria-Hungary, 1923 (No. 14), drafted according to System C; (2) Finland-Norway, treaty of conciliation, 1924 (No. 25), treaty of arbitration of 1926 (No. 59), and ratification of the Optional Clause (No. 129), drafted according to System G; (3) Denmark-Poland, 1926 (No. 64), drafted according to System H; (4) Switzerland-Colombia, 1927 (No. 86), drafted according to System J; (5) Switzerland-Finland, 1927 (No. 92), drafted according to System K.

methods in Systems D, E, and F. Investigation or conciliation is applied to non-legal disputes, and arbitration or compulsory adjudication to controversies of a legal nature.

(b). *Supplementary Use.* — In Systems H, I, J, and K, conciliation precedes any resort to a tribunal, and advisory procedure appears as a supplementary method. No doubt the parties are free to agree in a particular case that conciliation procedure shall be omitted, but for such a departure from the general rule an explicit agreement would be necessary. Switzerland<sup>28</sup> has particularly advocated the supplementary use of conciliation, and in a number of treaties Poland, Hungary, Italy, Denmark, and Colombia have adopted this principle, according to which disputes must be submitted to a commission of conciliation before an international tribunal can be resorted to.

System G adopts this method in regard to non-legal disputes only. Controversies which are not suitable for submission to the Permanent Court of International Justice according to the Scandinavian treaties are reserved for conciliation and eventual arbitration.

#### RELATION OF THE TREATIES TO OTHER PACIFIC PROCEDURES

It remains to discuss the relation of the methods provided for by these treaties to other agreements for the pacific settlement of international disputes, and in particular, to the procedure provided for by the Covenant of the League of Nations.

##### 1. *Relation to Earlier Arbitration Treaties*

Post-war treaties have frequently been concluded for the purpose of replacing earlier arbitration treaties. Numerous agreements, therefore, explicitly abrogate earlier systems of pacific settlement.<sup>29</sup> A reservation in regard to arbitral clauses contained in special treaties is usually made by such provisions as the following: "Disputes for the solution of which a special procedure has been laid down in other Conventions in force between the Contracting Parties shall be settled in accordance with the provisions of such Conventions" (cf. No. 7, Art. 1).

##### 2. *The Treaties and the Covenant of the League of Nations*

The majority of the treaties make no reference to the pacific procedure provided for by the Covenant of the League of Nations. The

<sup>28</sup> Cf. Message of the Swiss Federal Council, December 11, 1919, No. 1187, on international treaties of arbitration (Switzerland, *Feuille fédérale*, 1919, I, 809).

<sup>29</sup> Cf., e. g., Austria-Poland, 1926 (No. 62, Art. 21).

Covenant declares it "to be the friendly right of each member of the League to bring to the attention of the Assembly or of the Council any circumstances whatever affecting international relations which threaten to disturb international peace or the good understanding between nations upon which peace depends" (Art. 11, par. 2). Article 15 prescribes the details of the pacific procedure before the Council, and contains the statement that members of the League agree to submit to the Council any dispute likely to lead to a rupture "which is not submitted to arbitration." The application of Article 15, therefore, seems admissible only if the dispute is not referred to other pacific methods. In Article 21 the Covenant refers expressly to its relation to arbitration agreements in the statement: "Nothing in this Covenant shall be deemed to affect the validity of international engagements, such as treaties of arbitration or regional understandings like the Monroe Doctrine, for securing the maintenance of peace." Thus it appears that the Covenant cannot affect the validity of a treaty which refers all disputes between the parties to a commission of investigation or conciliation, or to an international tribunal for adjudication. A number of existing treaties<sup>30</sup> exclude the pacific procedure before the Council of the League by providing that disputes between the contracting parties shall be referred either to a commission of conciliation or to an international tribunal for adjudication. If one party should, in spite of such an agreement, bring the dispute before the Council of the League of Nations, it would violate its treaty engagement. To set aside the procedure provided for by the treaty and to have the dispute settled according to Article 15 of the Covenant would in this case require the explicit consent of both parties.

Some post-war treaties expressly define their relation to the Covenant of the League. Thus the treaty of conciliation between Sweden and Chile of 1920 (No. 5) stipulates: "Before having carried out the above-mentioned provisions [which provide for submission of any dispute whatsoever to a conciliation commission] neither of the parties may in accordance with Article 15 of the Covenant of the League of Nations submit the dispute to the Council of the League" (Art. 1). This agreement explicitly permits resort to the League, but only after the method of conciliation has been applied. This is also the arrangement provided by the Locarno treaties for non-justiciable disputes (see, e. g., Germany-Belgium, No. 45, Art. 18).

Another arrangement was made between Sweden and Uruguay in their conciliation treaty of 1923 (No. 11). This treaty provides

<sup>30</sup> Cf., e. g., Italy-Switzerland, 1924 (No. 29).

that all disputes between the parties, which it has not been possible to settle by diplomatic means and which have not been referred to arbitration or judicial settlement, shall be submitted to a commission of conciliation, but adds the reservation: "If, however, the dispute is of so acute a nature as to be likely to lead to a rupture, Article 15 of the Covenant of the League of Nations shall remain applicable."

From these citations it follows that the relation of the Covenant to the treaties is not the same in all cases. Certain treaties have made a special reservation so as to include the procedure of the Covenant in their system of pacific settlement. Other treaties have excluded the intervention of the Council of the League of Nations. In the latter case the pacific procedure provided for in Article 15 of the Covenant could be set in motion only by the mutual consent of the parties.

In this connection it is interesting to recall the opinions of the Committee of Jurists, appointed by the Council of the League of Nations in the Corfu incident and in the case of the *Salamis*, bearing upon the relation of the League procedure to other methods of pacific settlement. In the Corfu incident the answer of the jurists reads:

Where, contrary to the terms of Article 15, paragraph 1, a dispute is submitted to the Council on the application of one of the parties, where such a dispute already forms the subject of arbitration or of judicial proceedings, the Council must refuse to consider the application. If the matter in dispute, by an agreement between the parties, has already been submitted to other jurisdiction before which it is being regularly proceeded with, or is being dealt with in the said manner in another channel, it is in conformity with the general principles of law that it should be possible for a reference back to such jurisdiction to be asked for and ordered.<sup>31</sup>

In the case of the cruiser *Salamis* the report of the jurists stated:

It will not be contested that, as a general principle and in the absence of some special attribution of competence, the Council should not intervene in a question pending before another international organ such as a Mixed Arbitral Tribunal when (a) the request for the Council's intervention is made by only one of the parties, and (b) the case is being dealt with by that international organ with the consent of both parties and is regarded by it as within its competence. If this rule were not followed as a general principle, the position of all international tribunals would be prejudiced and an intolerable burden would be imposed on the Council of the League of Nations.<sup>32</sup>

The relation of the treaties to the Covenant is also touched on in the Assembly resolution of September 26, 1928, in which the

<sup>31</sup> League of Nations, *Official Journal*, 1924, No. 4, p. 524.

<sup>32</sup> *Ibid.*, 1928, No. 2, p. 179.



governments were invited to become parties to the General Act, or to conclude bilateral conventions for pacific settlement. In this resolution the Assembly declares:

that such undertakings are not to be interpreted as restricting the duty of the League of Nations to take at any time whatever action may be deemed wise and effectual to safeguard the peace of the world; or as impeding its intervention in virtue of Articles 15 and 17 of the Covenant, where a dispute cannot be submitted to arbitral or judicial procedure, or cannot be settled by such procedure, or where the conciliation proceedings have failed.<sup>33</sup>

#### DURATION OF THE TREATIES

The duration of these post-war agreements has usually been fixed for a certain number of years, during which the agreement cannot be denounced by one of the parties (e. g., Germany-Switzerland, No. 7, Art. 20).<sup>\*</sup> The periods vary from three to twenty years. In exceptional cases the treaty can be denounced at any moment, but such denunciation does not take effect until the lapse of a certain period (e. g., one year, in Austria-Hungary, 1923, No. 14). A quite special provision has also been inserted in the Locarno treaties, which remain in force "until the Council, acting on a request of one or other of the High Contracting Parties notified to the other signatory Powers three months in advance, and voting at least by a two-thirds' majority, decides that the League of Nations ensures sufficient protection to the High Contracting Parties; the Treaty shall cease to have effect on the expiration of a period of one year from such decision."<sup>34</sup>

The duration of the treaties is calculated from the date of their coming into force.<sup>35</sup> This date usually coincides with the date of exchange of ratifications. Some treaties, however, provide that the agreement shall not come into force until fifteen or thirty days after the exchange of ratifications (e. g., Denmark-Poland, No. 64, Art. 21).

After the expiration of the period fixed, either a new agreement between the parties is necessary for the prolongation of the treaty (e. g., France-Kingdom of Serbs, Croats, and Slovenes, No. 91, Art. 21), or it renews itself automatically, this being the case in the great majority of post-war agreements. An example of such a clause,

<sup>33</sup> League of Nations, *Official Journal*, Special Supplement, 1928, No. 63, p. 17.

<sup>34</sup> Article 8 of Locarno treaty of mutual guaranty (League of Nations, *Treaty Series*, LIV, 295), and No. 45, Art. 21.

<sup>35</sup> The duration of pre-war treaties had sometimes to be calculated from the date of signature (e. g., Convention of Arbitration between Great Britain and France, October 14, 1903, Art. 3).

providing first a fixed period for the duration of the treaty and thereafter an automatic prolongation, is contained in Article 21 of the treaty between Italy and Switzerland of 1924 (No. 20), which reads:

The Treaty . . . shall be concluded for a period of ten years from the date of its coming into force. Unless denounced six months before the expiration of this period, it shall be deemed to have been renewed for a further period of five years, and similarly thereafter.

. .

## CHAPTER II

### . RESERVATIONS CONTAINED IN THE TREATIES<sup>1</sup>

THE systems of pacific settlement discussed above have not always been adopted by the governments in their entirety; here and there certain reservations have been made which are in the nature of exceptions to the principles laid down in the treaty. At the beginning of this century such reservations were numerous and very extensive, minimizing to a considerable extent the obligation to resort to arbitration. An important step in advance made since the war has been the gradual exclusion of any reservations or, at least, the non-inclusion of reservations of too vague and destructive a character. In 1928 the General Act laid down the definite rule that, save for time limits and questions of domestic jurisdiction, only reservations "concerning particular cases or clearly specified subject matters, such as territorial status, or disputes falling within clearly defined categories" could be made to its provisions (Annex IV, Art. 39).

#### RESERVATION CONCERNING VITAL INTERESTS, INDEPENDENCE, AND HONOR

Pre-war arbitration treaties regularly contained a clause excluding from pacific procedure disputes "affecting the vital interests, the independence, or the honor of the two contracting parties."<sup>2</sup> A few treaties, concluded after the Armistice, continued to follow this example and included a similar reservation. The treaty between Germany and Switzerland of 1921, for instance, exempted from arbitration all disputes which "affect independence, integrity of territory, or other vital interests of the highest importance," or which are in a general way "of a preponderantly political significance."<sup>3</sup>

Such reservations exclude from judicial procedure those disputes which are most dangerous and most likely to lead to a rupture. The value of such treaties is thus reduced to an undertaking to resort to

<sup>1</sup> For literature, see *infra*, Bibliography, section V (a), under Cavalcanti.

<sup>2</sup> E. g., France-Great Britain, 1903: see *Traité général d'arbitrage communiqué au Bureau International de la Cour Permanent d'Arbitrage*, première série (The Hague, 1911), p. 32; for literature see Bibliography, section V (a), under Foster, and section V (b), under Miller, Wilson.

<sup>3</sup> See No. 7, Art. 4. Article 4 was abrogated in 1928.

arbitration only in cases which are of secondary importance, and which do not affect too deeply the sensibilities of both parties. It would seem to be impossible to define accurately in advance the type of disputes which could never be brought within the scope of such reservations, for the very reason that any international controversy may come to involve the honor of a country, or may become of preponderantly political significance. In practice this reservation will give to all parties the right to veto arbitral procedure whenever it appears politically expedient to do so.

Some Latin American treaties reduced this wide discretion left to the parties by enumerating definite cases where the reservation as to vital interests, independence, and honor could not be invoked. For instance, the treaty between Ecuador and Venezuela in 1921 (No. 6) states in Article 3:

In no case shall be considered as included in the exceptions mentioned in Article 2 [Reservation of vital interests, independence, and honor]: pecuniary claims; controversies concerning the interpretation or application of treaties referring to matters of an exclusively juridical, administrative, and economic character, or to matters of commerce or navigation; and disputes arising out of a denial of justice.

The great majority of treaties concluded since the war have abandoned the reservation as to vital interests, independence, and honor, as antiquated and out of harmony with the post-war systems of pacific settlement.

#### RESERVATION CONCERNING THE MONROE DOCTRINE

The Government of the United States, when it abandoned, in 1928, the clause above referred to, introduced a new reservation which reads:

The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which . . . depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine.<sup>4</sup>

This reservation appears to be less extensive than the reservation of all vital interests, but has in common with the older formula that it is vague and indefinite. Although there exist numerous statements of American statesmen and considerable literature on the

<sup>4</sup> See France-United States, 1928 (No. 95). For literature, see *infra*, Bibliography, section V (b), under Anderson, Hudson, Page.

Monroe Doctrine,<sup>5</sup> no agreement has ever been reached as to its precise limits.

#### RESERVATION CONCERNING THE COVENANT OF THE LEAGUE OF NATIONS

At the time of the introduction of the reservation concerning the Monroe Doctrine, another entirely new exception was inserted in the Franco-American treaty of 1928, which reads:

The provisions of this treaty shall not be invoked in respect of any disputes the subject matter of which . . . depends upon or involves the observance of the obligations of France in accordance with the covenant of the League of Nations. (No. 95, Art. 3.)

A similar reservation had already been formulated in 1926 in the notes exchanged between Denmark and Germany with reference to their treaty of conciliation, arbitration, and compulsory adjudication, in which the parties interpreted their treaty obligation as follows:

It is understood that disputes between Germany and a third State, to which Denmark as a Member of the League of Nations may be a party, cannot be considered as disputes between the Contracting Parties within the meaning of the present treaty. The same stipulation shall apply, as soon as Germany has become a Member of the League of Nations, to disputes between Denmark and a third State, to which Germany, as a Member of the League of Nations, may be a party. (No. 68.)

#### RESERVATION CONCERNING TERRITORIAL INTEGRITY

The treaty between Rumania and Switzerland of 1926 leaves either party free to withdraw from its application "any dispute affecting directly or indirectly questions concerning the territorial

<sup>5</sup> *American Foreign Policy*, based upon statements of the Presidents and Secretaries of State of the United States and of publicists of the American Republics, with an introduction by Nicholas Murray Butler. Carnegie Endowment for International Peace. Washington, D. C., 1920.

A. Alvarez, *The Monroe Doctrine, its Importance in the International Life of the States of the New World*. New York, 1924.

*The Centenary of the Monroe Doctrine: addresses delivered at the sessions commemorative of the centenary of the Monroe Doctrine*, Philadelphia, 1923. (Annals of the American Academy of Political and Social Science, CXI, suppl., Jan., 1924).

M. P. J. D. de Beaumarchais, *La doctrine de Monroe: L'évolution de la politique des États-Unis au XIX<sup>e</sup> siècle*. 2d ed., Paris, 1898.

Hector Petin, *Les États-Unis et la doctrine de Monroe*. Paris, 1900.

H. Kraus, *Die Monroedoktrin in ihren Beziehungen zur amerikanischen Diplomatie und zum Völkerrecht*. Berlin, 1913.

United States, Library of Congress, *List of References on the Monroe Doctrine*. Washington, 1919.

integrity or the present boundaries of the parties" (No. 58, Art. 1). Controversies concerning the territorial status of the parties have also been excluded from pacific settlement in a small number of other treaties. If this reservation is contained in an agreement like the treaty between Rumania and Switzerland, where the contracting parties have no common boundaries, the exception is of no great importance. It is different in the case of two neighboring countries such as Czechoslovakia and Poland (No. 39, Art. 1) or Germany and Switzerland (No. 7, Art. 4), where boundary disputes are more likely to arise. The latter treaty provides in its final protocol (Art. 1) that the reservation as to territorial integrity shall not be interpreted as including ordinary boundary disputes.<sup>6</sup>

#### RESERVATION OF CONSTITUTIONAL PRINCIPLES

Some Latin American governments are still reluctant to arbitrate questions affecting their constitutional principles, and their treaties usually contain a reservation to this effect. Thus, Article 1 of the treaty between Argentina and Switzerland of 1924 (No. 32) says: "Each of the High Contracting Parties shall remain free to decline arbitration of any dispute which, in its opinion, concerns questions affecting principles of its constitution." The reservation probably had its origin in the doctrine that the constitution is the supreme law of a country and is absolutely binding upon its executive, judicial, and legislative powers. On the other hand, an international tribunal is not bound by national constitutions, and if they are contrary to international law, the decision of the tribunal would necessarily override the constitutional principles. In such a case it might, however, prove impossible for a government whose action continued to be governed by such constitution to carry out the award. The exemption of constitutional principles from international arbitration is a radical method of preventing such difficulties; but the treaty between Germany and Switzerland of 1921 found a much more satisfactory solution of this problem.

According to this treaty, constitutional questions are also subject to arbitration. If they are in accordance with international law, it will do no harm to the party concerned to submit them to an international judge. If they are not in harmony with international law, the award will make this clear and bring the fact to the attention of

<sup>6</sup> Cf. also the reservation made by Paraguay to the Washington Arbitration Convention of January 5, 1929 (Annex V, b), which also distinguishes between boundary questions and "questions which directly or indirectly affect the integrity of the national territory."

the governments and of public opinion in the respective countries. If, in spite of this, the constitutional principles are not changed and the administration is not in a position to annul their consequences, the treaty provides that in place of the annulment the tribunal "shall award to the injured party equitable satisfaction of another kind." The German-Swiss provision, which has since been included in the great majority of post-war treaties, reads:

If in an arbitration award it is declared that a judgment or measure enjoined by a court of law or other authority of one of the parties is wholly or in part contrary to international law, and if the constitutional law of that party does not permit, or only partially permits, the consequences of the judgment or measure in question to be annulled by administrative measures, the arbitral award shall grant the injured party equitable satisfaction of another kind.<sup>7</sup> (No. 7, Art. 10.)

#### RESERVATION CONCERNING INTERESTS OF THIRD POWERS

If a dispute between the parties involves interests of third powers, the rights of such third powers have to be safeguarded. One solution offered is to exclude from the application of the treaty all disputes "the subject matter of which . . . involves<sup>8</sup> the interests of third parties" (United States-France, No. 95). Austria and Poland, in their treaty of 1923 (No. 16), provided that the treaty should not apply to "conventions to which third Powers may be Parties, or to which they may have adhered" (Art. 1).

The great majority of post-war treaties contain no reservation concerning such interests of third Powers. Some of them, on the contrary, state expressly that the treaty procedure shall be applied even if "third States are concerned in a dispute" (cf. Denmark-Germany, No. 68, Final Protocol). The possibility is provided for that such third Powers may adhere to the procedure, but the same treaty continues:

If no agreement is reached with the third States within a reasonable period, the procedure, as provided for by the treaty, shall take its course and be effective as far as the two contracting Parties are concerned.

#### RESERVATION CONCERNING MATTERS SOLELY WITHIN DOMESTIC JURISDICTION

When, in the course of the drafting of the Covenant of the League of Nations, the pacific procedure before the Council was

<sup>7</sup> The General Act of 1928, Art. 32, reproducing this provision, omits the words "by administrative measures" and "of another kind."

<sup>8</sup> Article 1 of the treaty between Siam and Great Britain of 1925 (No. 50) reserves from judicial procedure differences which "concern the interests of third parties."

laid down, the following passage was inserted in Article 15 of the Covenant:

If the dispute between the parties is claimed by one of them, and is found by the Council, to arise out of a matter which by international law is solely within the domestic jurisdiction of that party, the Council shall so report, and shall make no recommendation as to its settlement.

Probably under the influence of this example some governments have thought it advisable to insert a similar reservation in their post-war treaties of conciliation and arbitration. Thus, for instance, Article 2 of the Helsingfors Convention of 1925 (No. 34) reads: "This engagement shall not, however, apply to questions the legal nature of which makes them subject solely to the domestic legislation of the party concerned."

In the treaty between Poland and Sweden of 1925 (No. 49) the parties followed the wording of the Covenant more closely, saying: "The provisions of the present article do not apply to a matter which by international law is solely within the domestic jurisdiction of one or the other party" (Art. 2). When the new series of arbitration treaties concluded by the United States refer to "differences relating to international matters" (e. g., United States-France, No. 95, Art. 2), and exclude all others from an arbitral procedure, they probably intend to make the same reservation, that is to say, to exempt from arbitration those matters which according to international law can be regulated by each state in whatever way it sees fit. Although certain measures taken by a government might be injurious to the interests of other states, they might not necessarily be contrary to international law. A tribunal bound to decide on the basis of international law could not in such a case pronounce against such measures, which would fall within the domestic jurisdiction of the government concerned. This rule applies to any procedure based on international law, whether the treaty contains a reservation in regard to domestic matters or not. The Helsingfors Convention (No. 34) also excludes such matters from international conciliation, while, according to the treaty between Poland and Sweden (No. 49), domestic matters can be submitted to a conciliation commission.

Whether or not a question falls solely within domestic jurisdiction depends upon the international law in force between the disputing parties. The questions of immigration and armaments, for instance, might be "domestic matters" as between certain governments, but cease to be so as soon as these questions have been regulated by international agreements. As stated by the Permanent Court of In-



ternational Justice in its advisory opinion no. 4,<sup>9</sup> "The question whether a certain matter is or is not solely within the jurisdiction of a State is an essentially relative question; it depends upon the development of international relations."<sup>10</sup>

#### RESERVATION CONCERNING PROCEDURE BEFORE NATIONAL COURTS

In instituting international tribunals, it was necessary to define their relation to national courts, which in a number of cases might have concurrent jurisdiction. Latin American treaties often exclude the competence of the international tribunal if the question falls within the jurisdiction of national courts. Thus, the reservation made by Venezuela to the General Treaty of Inter-American Arbitration signed in Washington on January 5, 1929 (Annex V, b), reads:

There shall be excepted from this Treaty those matters which, according to the constitution or the laws of Venezuela, are under the jurisdiction of its courts; and especially those matters relating to pecuniary claims of foreigners. In such matters arbitration shall not be resorted to except when, legal remedies having been exhausted by the claimant, it shall appear that there has been a denial of justice.

Mexico added in its reservation to the same treaty that a case of denial of justice can arise, in the meaning of the treaty, only "after the judgment passed by the competent national authority has been placed in the class of *res judicata*."

In all instances of this kind, therefore, the remedies offered by procedure before national courts must be exhausted before the opposing party can resort to the international tribunal on the ground of a denial of justice.

Nearly all the treaties concluded in Europe since the war contain a reference to the jurisdiction of national courts, and provide that national remedies must be exhausted before international procedure can be invoked. The provision to this effect usually reads:

In the case of a dispute the occasion of which, according to the internal legislation of one of the Parties, falls within the competence of the national courts of such Party, the matter in dispute shall not be submitted to the procedure laid down in the present Convention until a judgment with final effect

<sup>9</sup> See dispute between France and Great Britain concerning the Nationality Decrees in Tunis and Morocco: Advisory Opinion no. 4, p. 24.

<sup>10</sup> For literature on "matters within domestic jurisdiction," see *infra*, Bibliography, section III, under Baty, Deth, Hurst, Mariotte, and Paulus, and section V (b), under Brierly.

has been pronounced, within a reasonable time, by the competent national judicial authority. (Cf., e. g., Locarno treaty, Belgium-Germany, No. 45, Art. 3.)

This provision does not exclude any dispute falling within the competence of national courts, as do most of the Latin American reservations. The European treaties state only that resort to the national courts must precede recourse to the international tribunal. Some treaties add that resort to arbitration or compulsory adjudication must be made in such cases within six months or a year after the final decision by the national authority (e. g., Germany-Switzerland, No. 7, Art. 3).

#### RESERVATION CONCERNING DISPUTES BELONGING TO THE PAST

When concluding post-war treaties, some governments have desired a guaranty that questions which had already been settled by common agreement should not again be made the subject of proceedings under the treaty. In order to exclude the reopening of such discussion, Latin American governments have included in their treaties a reservation to the following effect:

Questions which have been dealt with by definitive agreements between the two High Contracting Parties may not be reopened in virtue of this treaty. In such cases arbitration shall be applied only to questions which may arise as to the validity, interpretation, or execution of the said agreements. (Cf. Uruguay-Venezuela, 1923, No. 12, Art. 2.)

Numerous treaties go further by excluding from their pacific procedure "disputes arising out of events prior to the present Convention and belonging to the past" (e. g., Germany-Belgium, No. 45, Art. 1). Germany and the Netherlands excluded in their treaty of 1926 only "disputes arising directly out of the World War" (No. 66, Final Protocol). But this reservation as to all or certain disputes belonging to the past is not common to all post-war treaties. Many of them contain no such reservation, and some state explicitly that the treaty "shall also apply to disputes arising out of circumstances which occurred before the conclusion of the agreement" (e. g., Austria-Hungary, No. 14, Art. 2).

The treaties also contain reservations as to earlier agreements of the parties concerning the pacific settlement of their disputes. These provisions are not, however, true reservations in the sense of excluding certain disputes from pacific procedure. They simply lay down the relation between the various pacific methods applicable to controversies between the parties.<sup>11</sup>

<sup>11</sup> The relation of the treaties to other agreements for pacific settlement has been already discussed: *supra*, pp. 987-990.

## INTERPRETATION OF RESERVATIONS

In contrast to pre-war arbitration treaties, in which, as a general rule, each party had the right to interpret the reservations contained in the treaty and to decide whether or not a dispute was excluded from the provisions of the treaty, the post-war agreements began to transfer this power to an arbitral tribunal or to the Permanent Court of International Justice. There remain, however, some treaties according to which either party can declare that in its opinion the dispute falls within the scope of a reservation contained in the treaty, and is not, therefore, subject to arbitration (e. g., Argentina-Switzerland, No. 32, Art. 1). Other treaties, on the contrary, state that, in case of a difference of opinion between the parties as to whether the dispute falls under one of the reservations contained in the treaty, this preliminary question shall be referred to arbitration (e. g., Germany-Switzerland, No. 7, Art. 2). Frequently the following provision is found (e. g., Belgium-Switzerland, No. 77, Art. 22): "Any disputes which may arise as to the interpretation or the execution of the treaty shall . . . be submitted directly to the Permanent Court of International Justice by simple application" — a provision which guarantees that neither party can prevent the application of pacific procedure by an erroneous interpretation of the treaty.

The numerous reservations discussed here are, generally speaking, applicable only to judicial methods, while the same type of dispute is not exempted from investigation or conciliation. Thus, the reservations in the treaty concluded between France and the United States in 1928 (No. 95) do not apply to the procedure of investigation. This was explicitly stated in an exchange of notes between the two governments after the conclusion of the treaty.<sup>12</sup>

An international tribunal called upon to interpret a reservation is bound by the rule that exceptions to general principles are to be interpreted restrictively. Therefore, if a treaty contains the principle of pacific procedure for any dispute whatsoever between the parties, any reservations contained in it must be interpreted in a narrow sense, as indicated in the final protocol of the treaty between Germany and Switzerland of 1921 which reads: "The contracting parties agree that in case of doubt the stipulations of the treaty shall be interpreted in favor of the application of the principle of settlement of disputes by arbitration" (No. 7).

<sup>12</sup> See text of these notes, *supra*, No. 95, pp. 681-682.

## CHAPTER III

### METHODS OF INVESTIGATION AND CONCILIATION: ADVISORY PACIFIC PROCEDURE

#### INTRODUCTORY OBSERVATIONS

INVESTIGATION and conciliation as methods for the pacific settlement of international disputes have attracted particular attention in recent times, and it is perhaps not too much to say that the emphasis laid on arbitral procedure at the beginning of this century has been shifted in the past fifteen years to a procedure which analyzes the international controversy and leaves it to the parties to accept its solution by common agreement. The characteristics of this procedure are the free consent of the parties to the terms of settlement and the thorough analysis of the dispute, for the purpose of which the controversy is taken out of the ordinary diplomatic channels and placed in the hands of an international commission.<sup>1</sup>

The post-war treaties did not invent this method, but they have greatly improved its procedure and have considerably enlarged its field of application. The international commissioner who, according to the Hague Conventions, was an investigator of facts, has been gradually promoted to the position of conciliator of conflicting interests, and today many treaties provide for recourse to conciliation, not only when arbitration or resort to the Permanent Court of International Justice is excluded, but also as a preliminary step to any recourse to an international tribunal.

Before entering into details of advisory pacific procedure as organized by the treaties, the Hague Commissions of Inquiry and the Bryan Peace Commissions must be briefly reviewed; for they are the immediate forerunners of the post-war commissions of investigation and conciliation.

The Hague Peace Conferences of 1899 and 1907 were anxious to create some special board, besides good offices and mediation by third Powers, to assist disputing parties in arriving at a compromise. The Convention for the Pacific Settlement of International Disputes of July 29, 1899, created an International Commission of Inquiry, whose procedure was revised and completed in 1907.<sup>2</sup> This Com-

<sup>1</sup> For literature, see *infra*, Bibliography, section V (b), under Barra, Efremoff, Gorgé, Rostworowski, Ruegger, and Scherer.

<sup>2</sup> See *supra*, Annex II, pp. 905-911.

mission had no power to analyze the entire dispute or to propose a settlement. It was empowered only to elucidate the facts "by means of an impartial and conscientious investigation" (Art. 9). Resort to the Commission, possible only by special agreement of the disputing parties, was further hampered by the fact that the board was not established in advance.<sup>3</sup>

The permanency of the Commission was first introduced by the Bryan treaties.<sup>4</sup> At the same time the powers of the Commission were greatly enlarged. Its task was described as "to investigate and to report," and resort to this method was obligatory either in all cases or whenever a controversy had not been submitted to judicial settlement. As a general rule the Commission had the power to begin the investigation upon its own initiative. Concerning the composition of the Commission the treaty of 1913 between Guatemala and the United States says:

The International Commission shall be composed of five members, to be appointed as follows: One member shall be chosen from each country, by the Government thereof; one member shall be chosen by each Government from some third country; the fifth member shall be chosen by common agreement between the two Governments.<sup>5</sup>

This Commission could not impose any settlement upon the parties. Its work was confined within the limits of advisory procedure. Article 3 of the above-mentioned treaty states, for instance: "The high contracting parties reserve the right to act independently on the subject-matter of the dispute after the report of the Commission shall have been submitted."

With the introduction of such commissions the foundations were already laid for the advisory procedures created by the post-war treaties, which will now be considered in detail.

#### COMPOSITION OF THE COMMISSION OF INVESTIGATION AND CONCILIATION

The organ for the advisory pacific procedure instituted by the treaties is an international commission, the task of which is either to investigate and report upon the dispute, or to attempt to bring the parties to an agreement by proposing the terms of a settlement.

<sup>3</sup> For commentaries on the Hague Conventions for the Pacific Settlement of International Disputes, see *infra*, Bibliography, section II.

<sup>4</sup> Cf. J. B. Scott, *Treaties for the Advancement of Peace between the United States and other Powers Negotiated by the Honorable William J. Bryan*, New York, 1920.

<sup>5</sup> See *Treaties between the United States and other Powers*, III (1923), 2666.

### 1. *Permanency of the Commission*

Investigation and conciliation, in the new treaties, have been intrusted to special and permanent boards, after the example of the Bryan plan. Only a few exceptions to this rule can be found.<sup>6</sup> One is the treaty between Hungary and Switzerland (No. 19), where conciliation has been placed in the hands of a single Commissioner. It did not appear advisable to choose in advance one person for the conciliation of any dispute which might arise in the future, and the parties, therefore, reserved the right to appoint a conciliator "for each particular case" (Art. 3, par. 1).

Another departure from the general rule was made in the treaty between Colombia and Switzerland of 1927 (No. 86, Art. 2), and it is particularly interesting to learn that the proposal originated with the Swiss Government. Since 1919 Switzerland has always advocated the permanency of the Conciliation Commission. The treaty with Colombia, therefore, represents an innovation. The reasons for this departure from the rule are given in the message of the Swiss Federal Council to the Federal Assembly of 1927, as follows:

The Federal Council took into consideration the particular circumstances when it proposed to Colombia not to establish the Conciliation Commission on a permanent basis. The Federal Council attaches particular importance to the permanency of Conciliation Commissions between neighboring states, or between countries whose varied and frequent intercourse may only too easily become a source of misunderstanding and controversy. It is important that such states, in the case of a failure of diplomatic negotiations, should have the possibility of resorting immediately to conciliators for the settlement of disputes which might be aggravated by the delay resulting from the search for and setting up of appropriate means to overcome the diplomatic *impasse*. But between states widely separated, such as Colombia and Switzerland, dangers of such a kind are rarely to be feared, the more so because the possibilities of dispute are much fewer than between neighboring states or states situated not far from one another. It seemed superfluous, therefore, to set up a permanent Commission of Conciliation between the two countries. The Government of Colombia entirely accepted these arguments and the principle that a conciliation commission should be specially created for each separate case has been adopted.<sup>7</sup>

Concerning the later establishment of the Commission, the treaty provides that "the Commission of Conciliation shall be set up within three months from the date on which one of the parties has communicated to the other its intention to resort to the procedure of conciliation" (Art. 2).

<sup>6</sup> See List of Non-Permanent Commissions, Appendix B, II.

<sup>7</sup> Message of November 11, 1927, No. 2261 (Switzerland, *Feuille fédérale*, 77th year, II, 450-451).

Such particular cases, however, do not invalidate the general rule that the post-war agency for investigation and conciliation is established in advance and has a permanent character.

## 2. *Number of Commissioners*

How is this permanent commission composed?<sup>8</sup> As a general rule, it consists of five members, with some variations here and there. Reference has just been made to the single conciliator set up by the treaty between Hungary and Switzerland, which would seem to be rather exceptional. Some commissions are composed of three members. The task of conciliation is here intrusted to one national of each party presided over by a chairman, who "shall not be a national of the contracting states, nor domiciled in their territory, nor employed in their service."<sup>9</sup> When the commission is composed in this way, it may easily happen that the president has, in fact, the entire burden and responsibility of deciding on its findings. Reasons of economy are brought forward in support of the commission of three, but the majority of the treaties have adopted a membership of five for their commissions of conciliation. This system was already in force in the Bryan treaties. Their example has been closely followed by many post-war conventions, which require each party to elect two commissioners and to appoint by agreement a fifth member as president. Three members of this commission must not be nationals of any disputing party. This principle of the Bryan treaties is reshaped in a formula frequently used since the war by Scandinavian states.<sup>10</sup> Thus, in the treaty between Denmark and Sweden (No. 24) the formula is:

The Commission shall be composed of five members. Each Party shall appoint two members, one of which may be a national of the appointing State. The fifth member, who shall act as chairman of the Commission, shall be a national of a State not otherwise represented on the Commission. He shall be appointed jointly by the Parties. (Art. 3.)

In order to strengthen the impartial character of the commission of conciliation and to give its findings more weight, the treaty between Germany and Switzerland of 1921 (No. 7) went an important step further. While, according to the formula just quoted, the president alone is appointed by agreement between the parties, the new arrangement provides that three of the commissioners must have

<sup>8</sup> For a survey of the number of commissioners, see Appendix B, I.

<sup>9</sup> Cf., e. g., Austria-Switzerland, No. 30, Art. 3.

<sup>10</sup> For literature, see *infra*, Bibliography, section V (b), under Erich.

the confidence and consent of both parties in order that they may sit on the commission. Article 14 states:

The Permanent Council of Conciliation shall consist of five members. The Contracting Parties shall appoint one member each of their own choice and nominate the other three members by mutual agreement. These three members shall not be nationals of the Contracting Parties, nor shall they be domiciled in their territory, nor employed in their service. The Contracting Parties, shall by mutual agreement elect the President from among these three members.

This arrangement has been increasingly adopted since 1921, and has also been incorporated in the treaties of Locarno and the General Act for Pacific Settlement.

### 3. *Multipartite Commission*

The composition of a permanent commission presents some difficulties in a multipartite agreement. If a board is to be set up to which more than two parties can resort, its composition must be more complicated.<sup>11</sup> The four multipartite treaties drafted since 1919 offer the following solutions.

The Treaty of Washington of 1923 between Costa Rica, Guatemala, Honduras, Nicaragua, Salvador, and the United States (No. 10) has recourse to the system of a permanent list. Each party, having ratified the treaty, must proceed to nominate five of its nationals to form this list of commissioners (Art. 3). In the case of a dispute arising and an inquiry being desired, each party directly interested in the dispute will select one of its nationals from this list to sit on a commission to be formed for the particular case.

The Commissioners selected by the Parties shall, by common accord, choose a President, who shall be one of the persons included in the permanent list by any of the Governments which has no interest in the dispute. In default of said common agreement, the President shall be designated by lot, but in this case each of the Parties shall have the right to challenge no more than two of the persons selected in the drawing. (Art. 4.)

<sup>11</sup> For discussions on the organization of multilateral conciliation boards, see, among others: Jean Efremoff, "L'organisation de la médiation," *Revue de droit international et de législation comparée*, 3d series, VI (1925), 201-208, with reference to his proposals made before and after the war; Camille Gorgé, "L'évolution de la conciliation internationale," *Revue de droit international et de législation comparée*, 3d series, VII (1926), 633-676; VIII (1927), 58-106; Walther Schücking, *Das Völkerrechtliche Institut der Vermittlung* (Oslo, 1923). For other useful material on the subject of an international board of conciliation, cf. the various proposals made after the war for the constitution of the League of Nations. On the value of bipartite commissions instead of a universal board, cf. M. Rostworowski, *La Procédure de Conciliation*, Rapport présenté à l'Institut de Droit international, Session de Lausanne, 1927.



The Helsingfors Convention<sup>12</sup> (No. 34), concluded in 1925 by Estonia, Finland, Latvia, and Poland, supplies another solution. Following the ratification of the treaty, each of the four parties appoints one member, and by common agreement the parties choose a chairman of the commission who shall be a national of a state not party to the convention. Whenever a dispute is submitted to conciliation, the Commission is completed and adapted to the particular circumstances. Each party to the dispute appoints, in addition to its conciliator already sitting on the Commission, a second commissioner selected from among the nationals of a disinterested state. Then the permanent chairman of the Commission proceeds to convoke the members of the disputing parties appointed permanently and in advance, together with those additional members selected by the parties for the particular case. If there are two disputants, the Commission will be composed of five members, according to the Bryan treaties system. If there are more than two parties, the number will automatically be increased to seven or even nine members.<sup>13</sup>

Still another solution was adopted by the multilateral treaty signed in 1923 at the Fifth International Conference of American States at Santiago de Chile (No. 15). This treaty established two boards, which are permanently located, one in South America (Montevideo) and one in North America (Washington). These "shall be composed of the three American diplomatic agents longest accredited in said capitals, and at the call of the Foreign Offices of those States they shall organize, appointing their respective chairmen" (Art. 3). The functions of these permanent Boards are confined to receiving a request for the convocation of a commission of inquiry, communicating this request to the other party, and con-

\* <sup>12</sup> For literature, see *infra*, Bibliography, section V (b), under Erich.

<sup>13</sup> The stipulation of the Convention is as follows: "Within three months from the date on which the last ratification of the present Convention shall have been deposited, the High Contracting Parties shall establish a permanent Conciliation Commission composed of four members, each of the Parties appointing one member, and of a Chairman chosen by common agreement from among the nationals of a State not Party to the present Convention. . . . Any Party desirous of submitting a dispute to a conciliation procedure shall apply to the Chairman of the Permanent Commission. The latter shall immediately notify the opposing Party or Parties, and shall invite each Party to the dispute to appoint, in addition to the member already appointed by it, another member selected for the purpose from among the nationals of a State not Party to the dispute within a time-limit of six weeks from the day on which the invitation was issued. Should these appointments not have been made within the prescribed time-limit, the additional members shall be appointed by the Chairman. The permanent members of the Commission appointed by the Parties to the dispute, as well as the additional members, shall be convened without delay by the Chairman and shall, together with the latter, constitute the Conciliation Commission for the settlement of the dispute submitted to the conciliation procedure." (No. 34, Art. 6.)

voking the commission of inquiry to be elected in each particular case.<sup>14</sup> This Commission, which will actually investigate and report, consists of five members, all nationals of American states and appointed in the following manner:

Each Government shall appoint two at the time of convocation, only one of whom may be a national of its country. The fifth shall be chosen by common accord by those already appointed and shall perform the duties of President. However, a citizen of a nation already represented on the Commission may not be elected. Any of the Governments may refuse to accept the elected member, for reasons which it may reserve to itself, and in such event a substitute shall be appointed with the mutual consent of the Parties. (Art. 4.)

One of the provisions of this Santiago treaty is particularly interesting:

Whenever there are more than two Governments directly interested in a controversy, and the interests of two or more of them are identical, the Government or Governments on each side of the controversy shall have the right to increase the number of their Commissioners, as far as it may be necessary, so that both sides in the dispute may always have equal representation on the Commission. (Art. 4.)

This clause had already been inserted in the multipartite treaty of Washington (No. 10), concluded three months before, with only a slight difference of language. In a case where two or more governments have an identical interest in the matter, their representation on the Commission, taken together, shall not be greater than that of the other side. In order to arrive at such an "equal representation of both sides," it may be necessary for certain governments to increase the regular number of their commissioners. The Commission of the treaty of Santiago may under such circumstances have more than five members.

The proposal to take into consideration the fact that several signatories may make common cause in opposing one other government seems very valuable, and may necessitate a special composition of the Commission. This possibility has also been taken into account by the General Act (*supra*, Annex IV), which proposes the following constitution of the Commission if there are more than two parties to a dispute:

Should a dispute arise between more than two Parties to the present General Act, the following rules shall be observed for the application of the forms of procedure described in the foregoing provisions:

<sup>14</sup> The powers of these commissions have been enlarged by the Convention of Conciliation, signed at Washington on January 5, 1929. See *supra*, Annex V, a.

(a) In the case of conciliation procedure, a special commission shall invariably be constituted. The composition of such commission shall differ according as the parties all have separate interests or as two or more of their number act together. In the former case, the parties shall each appoint one commissioner and shall jointly appoint commissioners nationals of third Powers not parties to the dispute, whose number shall always exceed by one the number of commissioners appointed separately by the parties. In the second case, the parties who act together shall appoint their commissioner jointly by agreement between themselves, and shall combine with the other party or parties in appointing third commissioners. (Art. 34.)

#### 4. *Staff of Commission*

With regard to the staff of the Commission, some treaties contain a provision guaranteeing that both parties shall be equally represented on the registry of the Commission. Thus the treaty between Germany and Switzerland (No. 7) provides: "The Permanent Board of Conciliation shall, if need be, establish a registry. If it appoints nationals of the Contracting Parties to positions in this office, it shall treat both Parties alike" (Art. 14).

### THE COMMISSIONERS

#### 5. *Appointment of Commissioners*

The permanent Commission is constituted shortly after the ratification of the agreement. The treaties set a time limit varying from one to six months. If the commissioners have not been appointed by the parties within this period, a special form of procedure is applied for the constitution of the permanent board. The treaty between Sweden and Uruguay (No. 11, Art. 3), for example, refers to the provision of Article 45 of the Hague Convention for the Pacific Settlement of International Disputes, of October 18, 1907. If the Commission cannot be established because of the failure of the parties to agree upon its members, the Hague Convention proposes that each party shall appoint two members, of whom one only can be its national, or chosen from among the persons selected by it as members of the Permanent Court of Arbitration. These commissioners jointly choose an umpire. If the votes are equally divided, the choice of the umpire is intrusted to a third Power, selected by the parties by common accord. But even at this stage of procedure the parties may still fail to agree, and if a common agreement is not arrived at on this matter, each party selects a different Power and the choice of the umpire is made in concert by the Powers thus selected. The Convention continues:

If within two months' time these two Powers cannot come to an agreement, each of them presents two candidates taken from the list of members of the Permanent Court, exclusive of the members selected by the parties and not being nationals of either of them. Drawing lots determines which of the candidates thus presented shall be umpire.

Less complicated is the procedure of the Locarno treaty between France and Germany (No. 47) which states: "If the nomination of the commissioners to be appointed by common agreement should not have taken place within the said period . . . the President of the Swiss Confederation shall, in the absence of other agreement, be requested to make the necessary appointments" (Art. 5). This direct appeal to the head of a third state to act instead of the parties is very frequent, and guarantees the constitution of the Commission within a limited period after the coming into force of the treaties.

In recent years the practice has been evolved of replacing the heads of states in such instances by the President or members of the Permanent Court of International Justice. The treaty between Norway and Switzerland (No. 43) states:

If the appointment of the members to be nominated jointly, or of the President, is not made within six months after the exchange of ratifications, or, in the event of resignation or death, within two months after the vacancy occurs, these appointments shall be made at the request of either Party by the President of the Permanent Court of International Justice, or, if the latter is a national of one of the Contracting States, by the Vice-President, or, if he is in the same position, by the senior member of the Court who is not a national of one of the Contracting States. (Art. 2.)<sup>15</sup>

The same procedure applies to the filling of vacancies. The treaties set a time limit for the appointment of successors, or provide that the vacancy must be filled, at latest, upon the submission of a dispute to the Commission.

### 6. *Substitution of Commissioners*

A permanent conciliator may be merely temporarily prevented from sitting on the Commission, and the treaty between Poland and Switzerland (No. 35) offers a special solution for this case:

Should any member of the Conciliation Commission jointly appointed by the Contracting Parties be temporarily unable to take part in the Commission's work, through illness or for any other reason, the Parties shall jointly appoint a substitute, who will sit temporarily in his place. (Art. 4.)

<sup>15</sup> According to the special procedure for the appointment of the Commission provided for by the General Act of 1928, the parties may also request the Acting President of the Council of the League of Nations to make the necessary appointments (Annex IV, Art. 6).

To avoid any delay which might be caused by the temporary absence of a commissioner, some treaties encourage the parties to nominate in advance substitutes who would immediately fill the place in such emergencies. Article 7 of the treaty between Belgium and Switzerland (No. 77) provides:

Each Party reserves the right to nominate immediately a substitute to replace temporarily the permanent member appointed by it, who, by sickness or any other circumstance, may be prevented for the moment from taking part in the labors of the Commission.

At this point the provisions of the treaty between Brazil and Great Britain of 1919 (No. 3, Art. 2) must also be mentioned:

In the event of its appearing to His Majesty's Government that the British interests affected by the dispute to be investigated are not mainly those of the United Kingdom, but are mainly those of some one or more of the self-governing Dominions, namely, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland, His Majesty's Government shall be at liberty to substitute as the member chosen by them to serve on the international Commission for such investigation and report, another person selected from a list of persons to be named, one for each of the self-governing Dominions, but only one shall act, namely, that one who represents the Dominion immediately interested.<sup>16</sup>

Besides the permanent Commission a list of substitutes will be established to safeguard the interests of the British Dominions. This is a very interesting attempt to find a solution satisfactory to the various parts of the British Empire. It is to be hoped that from such beginnings a formula may be found which will allow the British Commonwealth of Nations to participate fully in the network of conciliation treaties now increasing so rapidly in number and importance.

#### 7. *Personal Qualifications of Commissioners*

As regards the personal qualifications of the commissioners, the treaties make scarcely any other requirement than that of nationality. The president is always drawn from a state not party to the dispute, and most of the commissions of five admit only one national from each party. To exclude these completely from the Commission of Conciliation did not seem desirable. Nationals of the contending states who are likely to have the best knowledge of the interests and policies of their country may be particularly fitted to carry out a

<sup>16</sup> Concerning this clause, see also the Bryan treaty between Great Britain and the United States of September 15, 1914, Art. 3. United States, *Statutes at Large*, XXXVIII, part 2, p. 1854.

procedure of conciliation. Concerning the other members of the Commission not nationals of the parties, some treaties require expressly that "they shall not have their domicile in the territory, nor have been in the service of the contracting parties."<sup>17</sup>

In examining the membership of conciliation commissions constituted up to date, it may be observed that ambassadors and ministers, former members of government, members of parliament and national supreme courts, professors of international law, or legal advisers to governments have been chosen by preference as commissioners. Isolated examples may be found of conciliators drawn from other fields: the director of a national bank,<sup>18</sup> the mayor of a capital,<sup>19</sup> or the general of an army.<sup>20</sup>

An illustration of the composition of such a modern commission of conciliation is to be found in the following example, which shows the members of the Permanent Conciliation Commission set up by France and Germany in execution of the Locarno treaty (No. 47):

*President appointed by both Parties*

F. V. N. BEICHMANN, President of the Court of Appeal at Trondhjem, Deputy Judge of the Permanent Court of International Justice. (*Norwegian.*)

*Members appointed by both Parties*

PAUL LOGOZ, Professor at the University of Geneva, President of the German-Jugoslav Mixed Arbitral Tribunal. (*Swiss.*)

JONKHEER W. J. M. VAN EYSINGA, Professor at the University of Leyden. (*Dutch.*)

*Member appointed by France*

JACQUES SEYDOUX, former Director in the Ministry of Foreign Affairs. (*French.*)

*Member appointed by Germany*

ERNST VON SIMSON, former Under-Secretary of State for Foreign Affairs. (*German.*)

## 8. *Terms of Office of Commissioners*

Once the commission is set up, its composition remains, if possible, the same for at least a certain number of years. "The members of the Commission are appointed for three years. In the absence of any contrary agreement of the two Governments they shall not be removed during their term of office," says the treaty between Chile

<sup>17</sup> Cf., e. g., Germany-Netherlands, No. 66, Art. 13.

<sup>18</sup> Cf. Commission Denmark-Finland, No. 22.

<sup>19</sup> Cf. Commission Lithuania-Sweden, No. 41.

<sup>20</sup> Cf. Commission Latvia-Sweden, No. 37.

and Sweden (No. 5, Art. 3). The principle of irremovability has as its correlative the limitation of the commissioner's mandate to a given number of years. His term of office is generally three years. Then the parties have an opportunity of replacing the members of the commission if they so desire. In the absence of any action on their part, the commissioners are *ipso facto* reappointed.

It is self-evident that the mandate of a commissioner cannot be allowed to expire while conciliation proceedings are being conducted. While such proceedings are being carried on, the mandate is automatically extended until the termination of the work of the commission. Article 17 of the treaty between Germany and Sweden (No. 28) thus defines this situation:

Should the term of office of any member expire while proceedings are still pending, such member shall continue to take part in the examination of the dispute until the termination of the proceedings, whether his successor has been appointed or not.

The system of the irremovability of the commissioners and a fixed term of office has been adopted especially by Scandinavian countries and has also found expression in the Locarno treaties.

Switzerland and Germany preferred another system in their treaty of 1921 (No. 7). Here the commissioners are appointed without any time limit. As long as no proceedings are pending, they can be replaced at any time upon the sole request of one party. This German-Swiss solution has the advantage that the commission, besides being permanent, remains as flexible as possible. If the commission is not working, its membership always remains open to improvement. The provision is as follows:

Either of the Contracting Parties shall at any time, if no procedure is pending or if no procedure has been proposed by one of the Parties, have the right to recall the member appointed by it and to appoint a successor. In the same circumstances either Contracting Party shall be entitled to withdraw its consent to the appointment of any one of the three members jointly elected. In that case a new member shall be appointed, without delay, by joint nomination. (No. 7, Art. 14.)

The Scandinavian formula was reconciled with this more flexible system when Switzerland and Sweden drafted their conciliation treaty of 1924. The Scandinavian provision for a three-year term of office and the irremovability of the commissioners was adopted, with, however, the following modification:

Within fifteen days following the notification of a request for conciliation to the Permanent Commission, either Party may replace the member of its own choosing by a person possessing special competence in the matter which forms

the subject of the dispute. The Party which intends to make use of this right shall immediately notify the opposing Party. In this case, the latter may make use of the same right within fifteen days after receiving the notification. (No. 17, Art. 4.)

This provision has since become very frequent and allows of a better adaptation of the Commission to the particular nature of the disputes which have arisen. The General Act of 1928 (*supra*, Annex IV, Arts. 4 and 8) has also adopted this provision.

#### 9. *Salary of Commissioners*

Most of the treaties contain the principle that "during the labors of the Permanent Conciliation Commission each commissioner shall receive a salary, the amount of which shall be fixed by agreement between the High Contracting Parties" (e. g., Germany-France, No. 47, Art. 15). The salaries of the commissioners appointed by the governments jointly are covered by both parties, each paying half of them. The salaries of the other commissioners are in some cases paid by that government which has appointed them. Some treaties add: "the Parties shall endeavor to arrange that the allowances of the members of the Commission on both sides shall be fixed at the same figure" (Denmark-Norway, No. 23, Art. 17). In other cases (e. g., No. 96, Art. 17; No. 97, Art. 19; No. 98, Art. 16) the salaries of all the commissioners are fixed by joint agreement and paid by the governments in equal shares.

Further details are left to the later arrangement of the parties. Only one treaty of conciliation specifically states: "the President of the Commission shall receive a monthly compensation of not less than 500 dollars, American gold, in addition to his travelling expenses." This provision was inserted in the convention of Washington of 1923 (No. 10, Art. 15).

#### 10. *Immunities of Commissioners*

By the same treaty special immunities are granted to the commissioners when they meet. "The commissioners shall enjoy the immunities which the laws of the country, where the Commission meets, may confer on members of the National Congress" (Art. 4).

The question whether the commissioners shall enjoy diplomatic immunities cannot be finally settled in bipartite treaties. The Commission may prefer to meet outside the territories of the parties, and the question whether its members shall enjoy diplomatic immunities in that case cannot be settled by the two disputing Powers. That must depend on a general rule of international law. Concerning the



existence of such a rule, it may be useful to recall the provision of the Convention for the Pacific Settlement of International Disputes, of 1907, which states: "the members of the Tribunal, in the exercise of their duties and out of their own country, enjoy diplomatic privileges and immunities" (Art. 46), and to remember that the Covenant of the League of Nations (Art. 7) and the Statute of the Permanent Court of International Justice (Art. 19) have granted the same privileges and immunities to League officials and Court members when exercising their functions.<sup>21</sup>

### 11. *Meeting Place of Commissioners*

That the Commission shall sit "in the country which offers the greater facilities" for its work, is the recommendation of the treaty between Brazil and Great Britain of 1919 (No. 3, Art. 3). The decision as to the place of meeting may lie with the president (Sweden-Switzerland, No. 17, Art. 6), or with the disputing parties (Washington Convention of 1923, No. 10, Art. 8), or with the Commission itself (Germany-Switzerland, No. 7, Art. 14). It may be necessary to change the place of meeting in the course of its labors, and such possibilities are expressly provided for:

The Commission shall meet at the place fixed by its President. Nevertheless should it think it necessary, in view either of a visit to the spot or of other considerations likely to assist the enquiry, it may transfer part of its work to a place other than that at which it has met. (Chile-Sweden, No. 5, Art. 7.)

While it would appear to be possible for the Commission to meet in the countries of the disputants, the treaty between Austria and Poland (No. 62, Art. 11) suggests that the meeting place shall be outside the territories of the parties. Sometimes the headquarters of the League of Nations is recommended as the meeting place of the Commission (Sweden-Uruguay, No. 11, Art. 7). Such a recommendation is usually followed by the provision that "the Commission may ask the Secretary-General of the League of Nations to extend his assistance" (No. 11, Art. 8). The expert staff of the League will thus be made available for the work of the Commission. The Assembly of the League of Nations in its resolution of September 22, 1922,<sup>22</sup> on the Procedure of Conciliation, approved of such assistance to the Commissions by the Secretary-General.

<sup>21</sup> Cf. F. Deák, "Classification, immunités et privilèges des agents diplomatiques," in *Revue de droit international et de législation comparée*, 3d series, IX (1928), 173-206, 522-567; English version in *Southern California Law Review*, March and May, 1928.

<sup>22</sup> See League of Nations, *Records of the Third Assembly, Plenary Meetings* (Geneva, 1922), I, 199-200.

## RESORT TO THE COMMISSION AND RULES OF PROCEDURE

The commissions of investigation or conciliation can be called upon only when diplomatic methods have failed. This rule is generally expressed in the texts of the treaties as follows: Those disputes are submitted to the procedure of conciliation which "it has not been possible to settle within a reasonable time through diplomatic channels" (e. g., Hungary-Switzerland, No. 19, Art. 1).

12. *Opening of Proceedings*

It was Secretary Bryan's proposal that not only the disputants but also the Commission might determine when conciliation proceedings should be opened. Some post-war treaties, in particular the treaties of investigation concluded by the United States, still retain this principle by stating: "The international commission may . . . spontaneously by unanimous agreement<sup>23</sup> offer its services . . . and in such case it shall notify both Governments and request their coöperation in the investigation" (e. g., United States-Albania, No. 125, Art. 3). The treaty between Sweden and Chile of 1920 adds, however, that such steps taken by the Commission "shall be void if neither of the Parties submits the dispute to the Commission as a result of such decision" (No. 5, Art. 6).

According to the majority of post-war treaties the institution of advisory proceedings is decided upon exclusively by the parties to the dispute. The proceedings of the Locarno commissions, for instance, are opened "by the two parties acting in agreement, or, in the absence of such agreement, by one or the other of the parties" (No. 47, Art. 6). According to this provision the disputants are obliged to confer with each other concerning the opening of conciliation proceedings. One party, however, shall not have the power to hold up pacific procedure by refusal to resort to the Commission. The request of either party addressed to the president of the Commission shall in such instances open the proceedings.

Some treaties have emphasized this right of one party to set in motion the machinery of the Commission, and the treaty between Sweden and Switzerland (No. 17) makes this categorical statement: "Each contracting party shall be free to decide at what period the procedure of conciliation may be substituted for diplomatic negotiations" (Art. 1). This statement, of course, must not be taken as

<sup>23</sup> The treaty between Spain and Portugal of 1928 (No. 93) replaced the unanimous agreement by an agreement between the President and two other members of the Commission (Art. 5).

preventing one party from conferring with the other in order to determine whether resort to the Commission may not be desirable. In practice, proceedings might be instituted as under the Locarno agreements. The Swedish-Swiss provision, however, has the advantage that it will prevent any discussion in the Commission as to whether diplomatic methods have been exhausted and can be replaced by conciliation procedure.

The request for conciliation is addressed to the president of the Conciliation Commission. "If the request emanates from only one of the parties, notification thereof shall be made by the requesting party to the other without delay" (France-Switzerland, No. 38, Art. 5). The convention between Denmark and Finland requires, further, that "the party which has submitted the dispute to the Commission shall notify the Secretary-General of the League of Nations" (No. 22, Art. 7). This is in view of the fact that the Conciliation Commission is advised to meet at the seat of the League of Nations. After the dispute is submitted to it, the Permanent Conciliation Commission is convened by its president as soon as possible (No. 22, Art. 7).

In most cases the request will contain a "summary of the subject of the dispute" (France-Switzerland, No. 38, Art. 5); should such information be lacking, the Washington Convention (No. 10, Art. 2) directs the Commission to proceed with the investigation, taking as a basis the diplomatic correspondence which has passed between the parties upon the matter. Some treaties require that the request "contain the invitation to the Commission to take all necessary measures with a view to arriving at an amicable settlement" (e. g., Germany-Belgium, No. 45, Art. 6).

### 13. *Details of Procedure*

An exposition of the question in dispute by the parties themselves is the best source of information available to the Commission in regard to the subject matter of the controversy.

(a) *Both Parties heard.* — The Washington Convention therefore provides that "both parties must be heard," adding that "the Commission shall notify each party of the statements of fact submitted by the other" (No. 10, Art. 12). Both disputants shall have full knowledge of the facts and requests presented to the Commission. Its form of procedure shall not be an inquisition but an open inquiry carried through with the full knowledge and coöperation of the parties. Many treaties refer to this point in the following words: "La procédure devant la Commission est contradictoire" (e. g., Sweden-

Uruguay, No. 11, Art. 11). Besides written statements, the parties can be summoned to an oral hearing, and the Locarno treaties provide: "The Commission on its side shall be entitled to request oral explanations from the agents, counsel, and experts of the two parties, as well as from all persons it may think useful to summon with the consent of their Government" (e. g., No. 48, Art. 12). The transactions before the Commission may take the common form of court procedure, with the two parties represented by agents and supported by experts and witnesses. Under the Franco-Swiss and the Locarno treaties,<sup>24</sup> the work of the Commission may be carried on in the form of conferences with the representatives of the parties or by any other informal method which may lead to a reconciliation.

(b) *Agents, Counsel, Experts, and Witnesses.* — Special agents appointed by each party represent the disputants before the Commission and act as intermediaries between the Commission and the disputing governments. Such agents may be assisted by counsel and experts and, according to the Locarno treaties, the parties also have the right to request "that all persons whose evidence appears to them useful should be heard" (e. g., Germany-Poland, No. 48, Art. 12). The Commission itself has the power to summon such witnesses, in some instances, however, only with the consent of their respective Governments.<sup>25</sup>

Numerous agreements contain the general promise of the parties that

the High Contracting Parties undertake to facilitate the labours of the Permanent Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to allow it to proceed in their territory and in accordance with their law to the summoning and hearing of witnesses or experts, and to visit the localities in question. (Germany-Poland, No. 48, Art. 14.)

According to the treaty between Chile and Sweden (No. 5), it appears possible that part of such investigations may be carried out by the president alone or by some of the commissioners. Article 7, however, provides: "Should these instructions be given to members other than the President, the number of those chosen from among the Commissioners designated by one of the two Governments shall be equal to that of the Commissioners nominated by the other."

<sup>24</sup> See *infra*, p. 1027.

<sup>25</sup> Cf. General Act (*supra*, Annex IV, Art. 11). This consent is also demanded in Article 12 of the treaty between Germany and Poland, No. 48. On the other hand, the governments are under an obligation to forward the depositions of witnesses, according to the treaty between Austria and Poland, No. 62, Article 13.

To bring the disputants to an agreement is possible only with their coöperation. Should one of the governments, contrary to its obligation, fail to appear before the Commission, the activities of the Commission will be greatly impeded, but its labors will not necessarily be interrupted. The Washington Convention of 1923 provides expressly for this contingency: "Once the Parties are notified, the Commission shall proceed to the investigation, even though they fail to appear" (No. 10, Art. 12).<sup>26</sup>

(c) *Publicity*. — Endeavors to reach a settlement demand discretion and cannot be carried on in public. The work of the Commission is, therefore, done "behind closed doors," *à huis clos* (Poland-Switzerland, No. 35, Art. 9); and publicity is forbidden until the result of the conciliation procedure is evident.<sup>27</sup> Private negotiations followed by the publication of the results is the general rule in regard to international conciliation. In a particular case, however, where public procedure seems advisable, the Commission may decide, with the consent of all parties, that its meetings shall be open to the public (Austria-Poland, No. 62, Art. 9).

(d) *Voting of Commissioners*. — The manner of voting of the Commission is carefully laid down by the treaties. No vote is possible in the Commission provided for by the treaty between Austria and Poland "unless all its [three] members duly convoked are present" (No. 62, Art. 10). The treaty between Germany and Switzerland, which provides for a commission of five members, three of whom are to be appointed by joint agreement, stipulates that the Commission can take a valid decision "if all the members have been duly convoked, and if at least the members elected by common agreement are present" (No. 7, Art. 17). In this instance the presence of three commissioners not nationals of the disputants suffices for the taking of a decision. "Duly convoked" has been interpreted in the treaty between Czechoslovakia and Poland as meaning that "the notices to attend were duly sent" (No. 39, Art. 10). The same treaty defines a quorum as consisting of the President and any two of the four remaining commissioners. In the treaty between Austria and Czechoslovakia (No. 61, Art. 13), two of the three commissioners are empowered to decide any question.

The Helsingfors Convention distinguishes between a vote on the subject matter of a case and other decisions, and provides: "The Commission cannot take decisions on the substance [*le fond*] of the

<sup>26</sup> If one party refuses to answer the questions of the President, "it shall be placed on record," provides Article 10 of the treaty between Chile and Sweden, No. 5.

<sup>27</sup> Concerning the publication of the report of the Commission, see *infra*, p. 1025.

dispute unless all members are present" (No. 34, Art. 14). According to numerous treaties, however, the Commission can proceed to a vote even if one or two commissioners are absent.

In taking any decision "each member has one vote." A simple majority determines the pronouncement made by the Commission (cf., e. g., Germany-France, No. 47, Art. 13). A departure from this general rule is made only in particular instances, for example, if the Commission desires to offer its services to the parties for conciliation (Sweden-Chile, No. 5, Art. 6), or to change the rules of procedure prescribed by the Hague Conventions (Italy-Switzerland, No. 29, Art. 7), or if it intends to publish its report immediately after submission to the parties (Sweden-Uruguay, No. 11, Art. 14). Then unanimity is required. "In the case of a tie, the President of the Commission shall have two votes," says the Washington Convention (No. 10, Art. 4); or, as other treaties state with the same intention, "the vote of the President shall be decisive" (Czechoslovakia-Poland, No. 39, Art. 10).

(e) *Guaranties against Disturbance of Proceedings.* — A promise of the parties not to disturb the course of the procedure is generally expressed in such terms as:

In the course of the conciliation . . . procedure, the parties shall refrain from taking any measure which might compromise the acceptance of the proposals of the Commission (Helsingfors Convention, No. 34, Art. 22.)

The Santiago Convention states that during the proceedings of the Commission "the question or controversy existing between the Parties . . . will *ipso facto* be suspended" (No. 15, Art. 3); and what this really means is made clear in detail by Article 1:

The High Contracting Parties undertake, in case of disputes, not to begin mobilization or concentration of troops on the frontier of the other Party, nor to engage in any hostile acts or preparations for hostilities, from the time steps are taken to convene the Commission until the said Commission has rendered its report or until the expiration of the time provided for in Article VII.

Many treaties invest the Commission with special powers for the maintenance of the *status quo*.

As soon as the Commission of Inquiry is organized, it shall, at the request of any of the Parties to the dispute, have the right to fix the status in which the Parties must remain, in order that the conditions may not be aggravated and matters may remain in the same state pending the rendering of the report by the Commission,

says the Convention of Washington (No. 10, Art. 13). In European treaties the following statement often occurs:

In any case, and particularly if the question on which the Parties differ arises out of acts already committed or on the point of being committed, the Conciliation Commission . . . shall lay down within the shortest possible time the provisional measures to be adopted. . . . Each of the High Contracting Parties undertakes to accept such measures, to abstain from all measures likely to have a repercussion prejudicial to the execution of the decision or to the arrangements proposed by the Conciliation Commission . . . and, in general, to abstain from any sort of action whatsoever which may aggravate or extend the dispute.\* (Germany-Poland, No. 48, Art. 19.)

(f) *Time Limit for Procedure.* — The Commission, although without the power to impose a settlement upon the disputants, has thus been accorded the extensive power of laying down the position in which the parties must remain during its activity. This is another enlargement of the competence of the Commission, made in recent times.<sup>28</sup> The labors of the Commission must be terminated within a fixed period, varying from three months (Washington Convention, No. 10, Art. 14) to twelve (Convention of Santiago, No. 15, Art. 5), to be counted from the date of the first meeting of the Commission (e. g., Austria-Poland, No. 62, Art. 8), or from the day on which the request for conciliation has been received by the president of the Commission (Sweden-Chile, No. 5, Art. 16). The Bryan treaties preferred the period of one year, while six months have generally been assigned to the post-war commission of conciliation for the accomplishment of its task (e. g., Germany-Poland, No. 48, Art. 8). These periods may be abbreviated or extended by the parties, and in some few instances the Commission itself may extend the original period fixed for its labors (e. g., the Netherlands-Switzerland, No. 52, Art. 13).

(g) *Costs of Procedure.* — The costs of the procedure declared by the Commission to be common are borne by the parties in equal shares. The other expenses incurred are to be covered by the party concerned. Some treaties (e. g., Sweden-Uruguay, No. 11, Art. 16) provide that the salaries of the commissioners appointed by each party alone are to be paid by the appointing party, while others (e. g., Denmark-Spain, No. 98, Art. 16) consider them joint expenses to be shared equally between the parties.

(h) *Intervention of Third Parties.* — The Final Protocol of the treaty signed by Denmark and Germany in 1926 (No. 68) contains an interesting provision for cases in which a third Power has an interest in the dispute submitted to conciliation procedure:

<sup>28</sup> The commission provided for in the General Act of 1928, however, can only recommend provisional measures (*supra*, Annex IV, Art. 33).

The treaty shall not cease to be applicable [says paragraph 3] if third states are concerned in a dispute. The contracting parties shall endeavor . . . to induce the third states to join the procedure of . . . conciliation. In this instance the two Governments may provide, by common agreement, that . . . the Permanent Council of Conciliation shall be constituted in a special manner.<sup>29</sup>

(i) *Gaps in Rules of Procedure.* — Gaps in the rules of procedure are filled by the Commission itself, or the Commission is referred to the detailed regulations drawn up at The Hague in 1907 for the International Commission of Inquiry. The provision of the Locarno treaties reads:

Failing any special provision to the contrary, the Permanent Conciliation Commission shall lay down its own procedure, which in any case must provide for both Parties being heard. In regard to inquiries, the Commission, unless it decides unanimously to the contrary, shall act in accordance with the provisions of Part III (International Commissions of Inquiry) of the Hague Convention of the 18th October, 1907, for the Pacific Settlement of International Disputes.<sup>30</sup> (Germany-Poland, No. 48, Art. 9.)

#### TASK OF THE COMMISSION

The task of the Commission is defined by the treaties in various ways, and the powers of the commissioners are not the same under all agreements.

##### 14. *Investigation into Facts*

It will be remembered that the task of the International Commission provided for by the Hague Convention of 1907 was to elucidate "the facts by means of an impartial and conscientious investigation," and this only in a dispute "arising from a difference of opinion on points of fact" (Art. 9). The task of the Commission of the Hague Convention was strictly limited to an investigation into facts and to furnishing the parties with a true account of the incidents leading up to the controversy. This commission had no power to enter into other aspects of the dispute or to propose a settlement.

##### 15. *Investigation into All Aspects of Dispute*

The powers of the Commission were considerably extended by the Bryan treaties of 1913. These treaties submit "any disputes . . . of whatever nature they may be . . . for investigation and report."<sup>31</sup>

<sup>29</sup> Cf. also Article 35 of the General Act of 1928, *supra*, Annex IV.

<sup>30</sup> For the text of the Hague Convention, see *supra*, Annex II, pp. 902-928.

<sup>31</sup> E. g., United States-Albania, No. 125, Art. 1.



Not only differences on points of fact, but all possible controversies are referred to the Commission. In other words, the investigation is no longer restricted to facts, but is extended to every aspect of the international dispute. The Commission may make a study of the causes of a dispute as well as hear the legal claims of the parties. The object of this investigation is to furnish the parties with an impartial analysis of the dispute, which the Commission is asked to present in the form of a report. This document will set forth the facts of the dispute as well as its legal elements. It is, however, the writer's opinion that the Bryan commission is not intrusted with the task of proposing a scheme for the settlement of the dispute. To propose a settlement involves an expression of opinion on the part of the commissioners with reference to the claims made by the parties. A commission which proposes a settlement renders an advisory opinion on the dispute, and for this action it needs explicit powers. The Bryan formula makes no mention of these powers, and if the parties desire the Bryan commission to submit a scheme for settlement, they must address a special and additional request to the commissioners.

A number of post-war treaties concluded by the United States define the task of the Commission after the manner of the Bryan treaties and restrict its powers to investigation. Any post-war commission whose task is limited in this way must, therefore, be designated as a commission of investigation, to distinguish it from a commission of conciliation, whose task includes also the submission of proposals for a settlement.

#### 16. *Proposals for Settlement of Dispute*

In 1920 Chile and Sweden concluded the first post-war treaty of conciliation (No. 5), charging the Commission to make a report on each dispute and "to submit a scheme for the settlement of the dispute, if circumstances permit" (Art. 12). The Scandinavian treaties of conciliation of 1924 (Nos. 22, 23, 24, 25, 26, and 27) added to this provision that the report shall include a proposal for the settlement of the dispute "if a settlement is possible, and if at least three members agree to the proposal." Only if a majority of the commissioners deem it advisable and can agree on a scheme of settlement will the report contain such proposals.

The treaty between Germany and Switzerland of 1921 (No. 7) requests the Commission to offer suggestions for the settlement of the dispute in all instances. Article 15 states: "It is the task of the Permanent Council of Conciliation to submit a report which shall

determine the state of things [*der den Sachverhalt feststellt*] and shall contain proposals for settling the dispute."<sup>32</sup> It is proposed to translate the passage of this treaty, "*der den Sachverhalt feststellt*," as "which determines the state of things." To translate it as "which determines the facts of the case" may be misleading; for in legal language the term "facts" has often to be taken in a narrow technical sense, as, for instance, in Article 9 of the Hague Conventions. Questions of fact are there opposed to questions of law, and this difference applied to the German-Swiss treaty would mean that the permanent Conciliation Council could investigate only certain aspects of the controversy. Such a return to the limited competence of the Hague Commission, however, is not intended by the treaty. The German *Sachverhalt* is intended to indicate the totality of the problem and includes all aspects of the case. If the treaty had purposed to limit the investigation to the facts only, the correct term would have been *Tatbestand* or *Tatfragen*. But the word used is *Sachverhalt*, which is, in literal translation, "state of things," *état de choses*, including all elements and aspects of the case submitted.

It would appear impossible for any commission to make adequate proposals for a final settlement, if it is not allowed to study questions of law as well as questions of fact. Wherever the Commission of Conciliation is empowered to propose a settlement, it would seem illogical, and indeed impossible, to limit its competence to an investigation of facts only.

Unfortunately the translations of the German-Swiss treaty have introduced the terms *état de fait* and "facts of the case" into the terminology of French and English treaty texts, and even the term *questions de fait* has been used for the German *Sachverhalt*, as for instance in Article 6 of the treaty between Hungary and Switzerland (No. 19).<sup>33</sup> The English and French expressions cannot in such instances be taken in their technical sense.

To corroborate the statement that *questions de fait* need not always be limited to non-legal aspects of a dispute, but may refer to its legal side as well, attention may be drawn to paragraphs 1 and

<sup>32</sup> Another formula defining the task of a conciliation commission is found in Article 6 of the treaty between Spain and Switzerland of 1920 (No. 63): "The task of the Commission of Conciliation shall be to examine the particular questions submitted to it, and to set down the results of its inquiry in a report, with a view to elucidating questions of fact and so facilitating the settlement of disputes. In its report the Commission shall clearly state the controversial points raised by these questions and shall add recommendations which may lead the parties to an agreement."

<sup>33</sup> Compare the French and German versions of the treaty as published in Switzerland, *Recueil des Lois fédérales*, XLI (1925), No. 14, and *Ämtliche Sammlung der Bundesgesetze und Verordnungen der Schweizerischen Eidgenossenschaft*, XLI, 321.

3 of Article 6 of the treaty between Hungary and Switzerland of 1924 (No. 19), which says: "The task of the Commissioner shall be to facilitate the solution of the dispute by elucidating . . . *the facts* [*questions de fait*]" ; and continues: "The report shall not be in the nature of a binding award as regards either its *exposition of facts* or its *legal considerations*." It is clear that the investigation is therefore directed to the law as well as to the facts.

As soon as the task of the International Commission was made to include the rendering of proposals for a pacific settlement, it was given competence to go into all aspects of the dispute. This has been done not only in European treaties, but also on the American continents by the treaty of Washington (No. 10). The statement of the Washington Convention for the Establishment of International Commissions of Inquiry, of 1923, was definite in this respect:

The Commission shall be empowered to examine all the facts, antecedents, and circumstances relating to the question or questions which may be the object of the investigation; and when it renders its report it shall elucidate said facts, antecedents, and circumstances, and shall have the right to recommend any solutions or adjustments which, in its opinion, may be pertinent, just, and advisable.

In this way it was provided that the Commission should begin with an investigation of the dispute submitted, make a full study of the questions involved, and submit a report with conclusions and proposals.

According to some treaties, the task of the Commission is accomplished once the report has been submitted. "The High Contracting Parties reserve full liberty of action as far as concerns the dispute submitted to the Commission for inquiry, once its report has been presented," says explicitly Article 13 of the treaty between Chile and Sweden (No. 5). Under such treaties the labors of the Commission come to a close before the acceptance or rejection of its proposal for a settlement. The activity of the Commission culminates in the presentation of a report.

#### 17. *Report of the Commission*

This report is signed by the president alone according to the Scandinavian treaties (see No. 22, Art. 16), or by all the commissioners, as under the Washington Convention (No. 10, Art. 14). This treaty adds: "Should one or more of them refuse to sign it, note shall be taken of the fact, and the report shall always be valid provided it obtains a majority vote." Certain treaties provide that the reasoned opinion of the members in the minority shall be recorded

in the report (e. g., Denmark-Finland, No. 22, Art. 14). The General Act, however, is opposed to such publication of the dissenting opinions, and provides that "no mention shall be made . . . of whether the Commission's decisions were taken unanimously or by a majority vote" (*supra*, Annex IV, Art. 15). Great Britain and Brazil ask the Commission to prepare three copies of the report, one for each government and a third for the archives of the Commission (No. 3, Art. 3). Chile and Sweden provide that one copy of the report shall be communicated to the Secretariat of the League of Nations (No. 5, Art. 15). The Washington Convention, signed by Costa Rica, Guatemala, Honduras, Nicaragua, Salvador, and the United States, requires that all contracting parties, and not merely the disputants, shall receive a copy of the findings of the Commission. The report shall be sent to the respective Ministries of Foreign Affairs (No. 10, Art. 14).

Whether the report of the Commission can be made public at the time of its submission to the parties is not made clear from the language of the Washington Convention. Later treaties have stated explicitly that "it is within the competence of the parties to decide by common consent whether the Commission's report shall be published immediately" (e. g., Sweden-Switzerland, No. 17, Art. 12). The Scandinavian conventions of 1924 added, however: "In special circumstances the Commission may decide that the report be published at once, even in the absence of any agreement" of the parties (e. g., No. 22, Art. 16). A more recent provision is Article 13 of the treaty between the Netherlands and Switzerland (No. 52), which requires that the parties shall not "publish the report individually without having first consulted each other." The Commission, according to this treaty, can also arrange for the publication of the report, but only if the two members freely appointed by the parties consent.

The report must be delivered within either three, four, six, or twelve months, and is of a purely advisory character. "The findings . . . will not have the value or force of judicial decisions or arbitral awards," in the language of the Washington Convention (No. 10, Art. 6). Or, as many European treaties say, "the report shall not, either as regards statement of facts or as regards legal considerations, be in the nature of a final judgment binding upon the parties" (cf., e. g., Germany-Switzerland, No. 7, Art. 15).

The report of the Commission cannot impose a settlement upon the disputants. Under certain circumstances it can go so far as to propose the details of a settlement, but it is left entirely to the parties

themselves to decide what action shall be taken as a result of this report. Many treaties provide that the parties must make a declaration concerning its contents. The treaty between Finland and Denmark requests such action "within reasonable time" (No. 22, Art. 16). The pronouncement must be made, according to the Swedish-Swiss treaty (No. 17, Art. 13) within three months from the date of the submission of the report. The Santiago treaty suggests to the parties a reopening of negotiations in view of the findings of the report (No. 15, Art. 7). If, after all these attempts, the dispute cannot be settled, the parties recover entire liberty of action to proceed as their interests may dictate. This, of course, is the case only if no other agreement for the pacific settlement of international disputes exists between the parties. In the majority of cases, however, a resort to the Council of the League of Nations, to an arbitral tribunal, or to the Permanent Court of International Justice is obligatory if investigation or conciliation fails.

In the treaty between Spain and Switzerland (No. 63) the Commission is instructed to prepare the way for a transition from conciliation to judicial procedure. The Commission is charged to fix the period within which the parties must reach their decision concerning the recommendations of the Commission, and to determine likewise the date by which the request for the submission of the dispute to the Permanent Court of International Justice must be formulated if the parties fail to come to an agreement. The first period shall not exceed six months, and for the latter not more than three months are allotted (No. 63, Art. 6). Thus the parties are forced to settle the dispute amicably, at the latest within nine months after the submission of the report, or a form of judicial procedure will be applied.

A final use of the report is indicated in Article 7 of the Washington Convention (No. 10). The reports of the Commission "may be presented as evidence by any of the litigant parties" in the case of arbitration or complaint before the Central American Tribunal.<sup>34</sup>

#### *18. Task of Bringing Parties to an Agreement*

Until 1925, the drawing up of a report was always considered as the main task of the Commission, and with its presentation the labors

<sup>34</sup> The correlative provision in the Convention for the Establishment of an International Central American Tribunal, signed on the same day at Washington, reads: "The reports of the Commissions of Inquiry, established by the Convention signed on this date, shall be considered by the Tribunal as part of the evidence, unless new evidence to the contrary should be offered to said Tribunal and it should be proved to the satisfaction of the Tribunal that said new evidence had not been taken into consideration by the Commission of Inquiry at the time they submitted their report." (No. 9, Art. 22.)

of the Commissioners were usually terminated. The treaty signed between France and Switzerland on April 6, 1925 (No. 38), made an innovation. It transferred the emphasis, which until then had been placed upon the drawing up of a *report*, to an *endeavor to bring the parties to an agreement*, and offered a new definition of the task of the Commission, according to which the presentation of conclusions and proposals in a report is no longer essential and can even be omitted if the Commission prefers. The new task assigned to the Franco-Swiss Commission reads as follows:

The task of the Permanent Conciliation Commission shall be to elucidate the questions in dispute,<sup>35</sup> to collect with that object all necessary information by means of inquiry or otherwise, and to endeavor to bring the parties to an agreement. It may, after examining the case, propose<sup>36</sup> to the parties the terms of settlement which seem suitable to it, and lay down a period within which they are to make their pronouncement.

At the close of its labors the Commission shall draw up a *procès-verbal* stating, as the case may be, either that the parties have come to an agreement, and, if need be,<sup>37</sup> the terms of the agreement, or that it has been impossible to effect a settlement. (Art. 6.)

This clause has been taken over by the treaties of Locarno and the General Act and can now be found in numerous other agreements.<sup>38</sup>

Once the Commission has been resorted to, it will not end its activity until the parties are reconciled or have clearly demonstrated that a reconciliation is impossible. The Commission has primarily as its task to bring the parties to an amicable settlement and, as Article 5 of the Franco-Swiss treaty states, "to proceed to apply any measures which may lead to a conciliation." The competence of the Commission is all-extensive, and the submission of a report with proposals is mentioned as one possible means of settling the dispute. After investigation, however, the Commission may prefer the method of conference, by which the problem is informally discussed with the parties, with the object of arriving at a settlement.

<sup>35</sup> *Questions en litige* says the original text, in place of the misleading term *questions de fait*.

<sup>36</sup> In the Locarno treaties, *proposer* is replaced by *exposer*. Cf. No. 48, Art. 8.

<sup>37</sup> The General Act says, "if need arises" (*supra*, Annex IV, Art. 15).

<sup>38</sup> The General Convention of Inter-American Conciliation signed on January 5, 1929, which transformed the Commission of Investigation created by the Gondra Convention (No. 15) into a Commission of Conciliation, defines the new task of the Commission in the following manner: "The function of the Commission, as an organ of conciliation, . . . is to procure the conciliation of the differences subject to its examination by endeavoring to effect a settlement between the parties. . . . It shall undertake a conscientious and impartial examination of the questions which are the subject of the controversy, shall set forth in a report the results of its proceedings, and shall propose to the parties the bases of a settlement for the equitable solution of the controversy." *Supra*, Annex V, a, Art. 6.

The suggestions of the commissioners may be rejected, and they may then make new proposals.<sup>39</sup> In short, it is left to the commissioners to choose the method to be applied to a particular case, and their efforts must not cease until the parties are reconciled or the failure of the method of conciliation is complete and evident. This should normally be made clear within a period of six months. The labors of the Commission "shall, unless the Parties otherwise agree, be terminated within six months from the day on which the dispute was laid before the Commission" (France-Switzerland, No. 38, Art. 6). A *procès-verbal* will announce the closing of the work of the Commission.

The proceedings of all commissions will open with an investigation of the dispute. The questions in dispute will be elucidated and the points of disagreement defined. This elucidation will reveal the differences of opinion between the parties as to questions of fact and questions of right. The Conciliation Commission has thereupon to attempt to bring the parties to an agreement. This it may not always be able to do simply by passing an opinion on the facts of the case and the rights of the parties. In many cases it may prove necessary to reconcile conflicting interests of the disputants. Such interests of states pleaded before the Commission need not necessarily coincide with the rights of states as sanctioned by international law. Interests and legal rights are different matters and do not necessarily coincide, and the Conciliation Commission may be forced to go beyond the realm of law to arrive at a solution acceptable to all parties.<sup>40</sup>

The intrinsic value of such a method is apparent. It leads primarily to a reconciliation of interests and not to the application of law. Advisory pacific procedure may, therefore, succeed, not only in settling an incident, but also in removing the fundamental causes of an international conflict.

## SUGGESTED PROVISIONS FOR A TREATY OF CONCILIATION

### 1. *Composition of the Commission*

Les Hautes Parties contractantes institueront une Commission permanente de Conciliation composée de cinq membres.

The High Contracting Parties shall establish a Permanent Conciliation Commission composed of five members.

<sup>39</sup> Cf. commentary on the treaty in the *Message of the Federal Council of Switzerland to the Federal Assembly of May 15, 1925* (No. 1976).

<sup>40</sup> The reason for this is that international law does not take cognizance of all the interests of states, or might not protect them adequately.

Elles nommeront chacune un membre choisi parmi leurs propres ressortissants et désigneront les trois autres d'un commun accord. Ces trois membres ne pourront pas être des ressortissants des Parties contractantes, ni avoir leur domicile sur leur territoire ni se trouver à leur service.

Le Président de la Commission sera désigné, d'un commun accord, parmi les membres nommés en commun.

Les commissaires sont élus pour trois ans. Si, à l'expiration de cette période, il n'est pas pourvu à leur remplacement, leur mandat est censé renouvelé.

Un commissaire dont le mandat expire pendant la durée d'une procédure en cours continue à prendre part aux travaux de la Commission jusqu'à ce que la procédure soit terminée.

Each Party shall nominate one member, chosen from its own nationals, the other three being appointed by common agreement of the Parties. These three members may not be nationals of the Contracting Parties, nor be domiciled in their territory, nor employed in their service.

The President of the Commission shall be designated by common agreement from among the jointly selected members.

The commissioners shall be appointed for three years. If, at the end of this period, their replacement is not provided for, their term of office shall be considered as renewed.

A commissioner whose term of office expires in the course of proceedings in connection with a submitted dispute shall continue to take part in such proceedings until they are terminated.

## *2. Substitution of Commissioners*

Tant qu'une procédure de conciliation n'a pas été proposée par l'une des Hautes Parties contractantes, chacune d'elles aura le droit de révoquer le commissaire nommé par elle et de lui désigner un successeur, comme aussi de retirer son consentement à la nomination de chacun des trois commissaires désignés en commun. Dans ce cas, il y aura lieu de procéder sans délai au remplacement des commissaires dont le mandat a été ainsi terminé.

Dans un délai de quinze jours à partir de la date où les deux ou l'une des Hautes Parties contractantes auront porté une contestation devant la Commission permanente de Conciliation, chacune des Parties pourra, pour l'examen de

As long as a procedure of conciliation has not been proposed by one of the High Contracting Parties, each of them shall have the power to revoke the appointment of its nominee on the Commission and to appoint his successor, and also to withdraw its consent to the appointment of any of the three commissioners nominated jointly. In this case the replacement of the commissioners whose term of office has thus been terminated shall be effected without delay.

Within fifteen days from the date when both or one of the High Contracting Parties shall have brought a dispute before the Permanent Conciliation Commission, either Party may, for the examination of the particular dispute, re-



cette contestation, remplacer le commissaire librement désigné par elle par une personne possédant une compétence spéciale dans la matière. La Partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie; celle-ci aura, dans ce cas, la faculté d'agir de même dans un délai de quinze jours à partir de la date où la notification lui sera parvenue.

Au cas où l'un des membres de la Commission de Conciliation serait momentanément empêché de prendre part aux travaux de la Commission par suite de maladie ou de toute autre circonstance, les Parties désigneront un suppléant qui siègera temporairement à sa place.

place the commissioner of its own choosing by a person possessing special competence in the matter. The Party making use of this right shall immediately inform the other Party; the latter shall in that case be entitled to take similar action within fifteen days from the date when the notification has been received.

Should any member of the Conciliation Commission be temporarily unable to take part in the work of the Commission through illness or any other circumstance, the parties shall appoint a substitute who shall sit temporarily at his place.

### 3. *Constitution of the Commission*

La Commission permanente de Conciliation sera constituée au cours des six mois qui suivront l'échange des ratifications du présent Traité.

Si la nomination des commissaires n'intervient pas dans ce délai ou, en cas de remplacement ou de substitution, dans les trois mois à compter de la vacance du siège, les nominations seront effectuées, à la demande d'une seule des Parties, par le Président de la Cour permanente de Justice internationale, ou, si celui-ci est ressortissant de l'un des États contractants, par le Vice-Président, ou, si celui-ci se trouve dans le même cas, par le membre le plus âgé de la Cour qui n'est pas ressortissant de l'un des États contractants.

The Permanent Commission of Conciliation shall be constituted within six months following the exchange of ratifications of the present Treaty.

If the appointment of the commissioners does not take place within this period, or, in case of their replacement or substitution, within three months after the vacancy occurs, the appointments shall be made, at the request of either Party, by the President of the Permanent Court of International Justice, or, if the President is a national of one of the Contracting States, by the Vice-President, or, should the latter be in the same position, by the senior member of the Court who is not a national of one of the Contracting States.

Les commissaires sortants seront remplacés suivant le mode fixé pour la première élection.

The replacement of the commissioners shall be made in the same manner as laid down for their original appointment.

#### 4. *Resort to the Commission*

La Commission permanente de Conciliation sera saisie par voie de requête adressée au Président par les deux Parties agissant d'un commun accord, ou, à défaut, par l'une ou l'autre des Parties.

La requête, après avoir exposé sommairement l'objet du litige, contiendra l'invitation à la Commission de procéder à toutes mesures propres à conduire à une conciliation.

Si la requête émane d'une seule des Parties, elle sera notifiée par celle-ci sans délai à la Partie adverse.

A dispute shall be laid before the Permanent Conciliation Commission by means of a request addressed to the President by the two parties acting in agreement, or, in the absence of such agreement, by one or other of the Parties.

The request, after giving a summary account of the subject of the dispute, shall contain an invitation to the Commission to take all necessary measures with a view to arriving at an amicable settlement.

If the request emanates from one of the Parties only, notification thereof shall be given by this Party to the opposing Party without delay.

#### *Task and Competence of the Commission*

La Commission permanente de Conciliation aura pour tâche d'éclaircir les questions en litige, de recueillir à cette fin toutes les informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, exposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

À la fin de ses travaux la Commission dressera un procès-verbal constatant, suivant le cas, soit que les Parties se sont arrangées et, s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la Commission devront, à moins que les Parties en conviennent différemment, être terminés dans le délai de six mois à compter du jour où la Commission aura été saisie du litige.

The task of the Permanent Conciliation Commission shall be to elucidate the questions in dispute, to collect with that object all necessary information by means of inquiry or otherwise, and to endeavor to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of settlement which seem suitable to it, and lay down a period within which they are to make their decision.

At the close of its labors the Commission shall draw up a report stating, as the case may be, either that the Parties have come to an agreement and, if there is occasion, the terms of the agreement, or that it has not been possible to effect a settlement.

The labors of the Commission must, unless the Parties otherwise agree, be terminated within six months from the day on which the dispute was laid before the Commission.

### 6. *Seat of the Commission*

La Commission permanente de Conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son Président.

The Permanent Conciliation Commission shall meet, in the absence of agreement by the Parties to the contrary, at a place selected by its President.

### 7. *Privacy of the Proceedings*

Les travaux de la Commission permanente de Conciliation ne sont publics qu'en vertu d'une décision prise par la Commission avec l'assentiment des Parties.

The proceedings of the Permanent Conciliation Commission are not public except when a decision to that effect has been taken by the Commission with the consent of the Parties.

### 8. *Agents, Counsel, Experts, and Depositions*

Les Parties seront représentées auprès de la Commission permanente de Conciliation par des agents ayant mission de servir d'intermédiaires entre elles et la Commission; elles pourront, en outre, se faire assister par des conseils et experts nommés par elles à cet effet, et demander l'audition de toutes personnes dont le témoignage leur paraîtrait utile.

The Parties shall be represented before the Permanent Conciliation Commissions by agents, whose duty it shall be to act as intermediaries between them and the Commission. They may, moreover, be assisted by counsel and experts appointed by them for that purpose, and they may request that all persons whose evidence appears to them useful should be heard.

La Commission aura, de son côté, la faculté de demander des explications orales aux agents, conseils et experts des deux Parties, ainsi que la communication par le Gouvernement respectif de la déposition de toute personne dont le témoignage serait considéré par elle comme pertinent.

The Commission on its side shall be entitled to request oral explanations from the agents, counsel, and experts of the two Parties, as well as the forwarding by the respective Governments of the deposition of any person whose testimony is considered by the Commission as pertinent.

### 9. *Quorum and Voting of the Commission*

La Commission ne peut prendre une décision valable que si tous les membres ont été dûment convoqués et si au moins trois membres sont présents.

The Commission cannot take any valid decision unless all its members have been duly convoked and at least three of them are present.

Les décisions de la Commission seront prises à la majorité des voix. Chaque membre disposera d'une voix. En cas de partage, le Président aura deux voix.

The decisions of the Commission shall be taken by a majority vote, each member having one vote. In case of a tie the President of the Commission shall have two votes.

### 10. *Costs of the Proceedings*

Pendant la durée des travaux de la Commission permanente de Conciliation, chacun des membres de la Commission recevra une indemnité, dont le montant sera arrêté d'un commun accord par les Hautes Parties contractantes

Chaque Partie supportera ses propres frais et une part égale des frais communs de la Commission, les indemnités des commissaires étant comprises parmi ces frais communs

During the proceedings of the Permanent Conciliation Commission each member of the Commission shall receive an allowance, the amount of which shall be fixed by the High Contracting Parties by common agreement

Each Party shall bear its own expenses and half of the common expenses of the Commission, the allowances of the commissioners being included among these common expenses

### 11. *Rules of Procedure*

A moins de stipulation spéciale contraire la Commission permanente de Conciliation réglera elle-même sa procédure qui dans tous les cas, devra être contradictoire

Failing any special provision to the contrary the Permanent Conciliation Commission shall lay down its own procedure which in any case must provide for both Parties being heard

### 12. *Support by the Parties*

Les Hautes Parties contractantes s'engagent à faciliter les travaux de la Commission permanente de Conciliation et en particulier, à lui fournir dans la plus large mesure possible tous documents et informations utiles, ainsi qu'à user des moyens dont elles disposent pour lui permettre de procéder sur leur territoire et selon leur législation à la citation et à l'audition de témoins ou d'experts et à des transports sur les lieux

The High Contracting Parties undertake to facilitate the work of the Permanent Conciliation Commission and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to allow it to proceed, in their territory and in accordance with their laws to summon and hear witnesses or experts, and to visit the localities in question

### 13. *Provisional Measures*

Dans tous les cas, et notamment si la question au sujet de laquelle les Parties sont divisées résulte d'actes déjà effectués ou sur le point de l'être la Commission permanente de Conciliation indiquera,

In any case, and particularly if the question on which the Parties differ arises out of acts already committed or on the point of commission, the Permanent Conciliation Commission shall lay down

dans le plus bref délai possible, quelles mesures provisoires doivent être prises.

Chacune des Hautes Parties contractantes s'engage à s'y conformer, à s'abstenir de toute mesure susceptible d'avoir une répercussion préjudiciable à l'exécution de la décision ou aux arrangements proposés par la Commission permanente de Conciliation, et, en général, à ne procéder à aucun acte de quelque nature qu'il soit susceptible d'aggraver ou d'étendre le différend.

within the shortest possible time the provisional measures to be adopted.

The High Contracting Parties undertake respectively to accept such measures, to abstain from any measures that might prejudicially affect the execution of the decision or the arrangements proposed by the Permanent Conciliation Commission, and, in general, to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

## CHAPTER IV

### METHODS OF ARBITRATION AND COMPULSORY ADJUDICATION: JUDICIAL PACIFIC PROCEDURE

#### INTRODUCTORY OBSERVATIONS

IN CONTRAST to the advisory pacific procedure leading to a settlement freely agreed to by the parties, arbitration and compulsory adjudication result in a settlement which is imposed upon the disputants. By these methods the parties refer their altercations to a tribunal, and agree in advance to abide by its decision. Such procedure leading to a decision by an international tribunal will be characterized as judicial procedure, independently of whether the tribunal is permanent or temporary, or whether the judges decide according to law or to equity. The boundary line between non-judicial and judicial procedures might most satisfactorily be drawn between methods proposing and methods imposing a settlement, between advisory procedure and that which leads to a binding decision.

In the past, international arbitrators have sometimes been charged with the task of trying to bring the parties to an amicable settlement before deciding the dispute. The arbitrator could play the part of conciliator as well as render a decision.<sup>1</sup> The post-war treaties show a strong tendency to make a definite separation between advisory and judicial procedure by referring the parties, for purposes of conciliation, to a special commission, and, for purposes of adjudication, to a temporary tribunal or the Permanent Court of International Justice. If, by virtue of these treaties, the parties resort to a tribunal, it is to request a judgment, and they do not expect the arbitrators to engage in an advisory procedure by acting as conciliators.

The organization of judicial procedure in the post-war treaties still varies considerably. The most perfect system is the procedure of compulsory adjudication by which a disputant can cite the other party before the Permanent Court of International Justice by means of a unilateral application. Under such agreements the opposing party can be compelled to submit the dispute to adjudication. If the method of arbitration is adopted, the opening of judicial

<sup>1</sup> Cf. H. Lammasch, *Die Lehre von der Schiedsgerichtsbarkeit in ihrem ganzen Umfange* (Stuttgart, 1913), pp. 12, 13

proceedings is more complicated and can be carried out only if all the parties to the dispute cooperate in setting up the tribunal and in formulating the questions to be submitted to judicial settlement.

## COMPOSITION AND SETTING UP OF THE TRIBUNAL

### 1. *Permanent or Temporary Tribunals*

The post-war treaties either refer the parties to the Permanent Court of International Justice at The Hague or provide for the creation of temporary tribunals for the judicial settlement of their disputes. If the parties do not make use of the Permanent Court, the tribunal is constituted after the dispute has arisen and in view of the particular case. The treaties pay much attention to such temporary tribunals and lay down the mode of their constitution in detail.

### 2. *Tribunals Consisting of One Arbitrator*

Thus the treaty signed between Spain and Uruguay in 1922 provides that

the duties of arbitrator shall be entrusted preferably to the Head of the State of one of the Spanish American Republics or to the President of a Spanish-American Supreme Tribunal or Court of Law or failing either of the above to a tribunal composed of Uruguayan Spanish or Spanish American judges and experts (No 8, Art 3)

This provision recalls earlier stages in the development of international arbitration, when it was common to appeal to the head of a friendly state, who, in turn, appointed experts to report on the dispute and prepare the award of the sole arbitrator. An example of such procedure in recent times was the Tacna-Arica arbitration between Chile and Peru, which was referred to the President of the United States in 1922.<sup>2</sup> A sole arbitrator was appointed also in the dispute concerning the sovereignty of the island of Palmas, submitted to arbitration by the United States and the Netherlands on January 23, 1925. The dispute, however, was in this case referred, not to the holder of a high political office, but to an international jurist of high reputation.<sup>3</sup>

<sup>2</sup> Cf. Protocol of Arbitration, signed by Peru and Chile, July 20, 1922, League of Nations, *Treaty Series*, XXI, 142.

<sup>3</sup> Cf. *compromis* in League of Nations, *Treaty Series*, XXXIII, 446. The sole arbitrator was the former President of the Permanent Court of International Justice, Judge M. Huber.

### 3. *Tribunals of Three Arbitrators*

A tribunal of three arbitrators is recommended by the Convention for the establishment of an International Central American Tribunal, signed on February 7, 1923, by Guatemala, Salvador, Honduras, Nicaragua, and Costa Rica. This treaty provides that each party to a dispute shall select one arbitrator, and that the two shall appoint another arbitrator by common agreement (No. 9, Art. 7b). The treaty provides further "no two arbitrators of the same nationality may sit upon the Tribunal" (No. 9, Art. 8). The treaty between Ecuador and Venezuela of 1921 contains in addition the rule that no nationals of the parties can be nominated as arbitrators, nor foreigners domiciled or residing in Venezuela or Ecuador (No. 6, Art. 7).

An arbitral tribunal of three members was also proposed by the Second Hague Peace Conference for disputes allowing of a summary procedure. In this case the parties are advised to select two judges, who, in this instance, may be nationals of the countries in dispute. The president of the tribunal is appointed by the two selected arbitrators or by lot from among the members of the Permanent Court of Arbitration who are not appointed by the parties and are not their nationals (*supra*, Annex II, Art. 87).

### 4. *Tribunals of Five Arbitrators*

In general, however, the Hague Convention for the Pacific Settlement of International Disputes recommends a tribunal of five members, and this suggestion has been adopted in the majority of post-war treaties.

### 5. *Tribunals of more than Five Arbitrators*

If more than two states are parties to a dispute, the usual number of arbitrators may be increased. The General Treaty of Inter-American Arbitration provides for such a case that, if the interests of two or more of the parties are similar,

the State or States who are on the same side of the question may increase the number of arbitrators on the court, provided that in all cases the Parties on each side of the controversy shall appoint an equal number of arbitrators (*Supra*, Annex A, b).

If a dispute is brought before the Permanent Court of International Justice the case will be adjudicated by at least nine<sup>4</sup> judges, including a judge of the nationality of each of the parties.

<sup>4</sup> Article 25 of the Statute of the Court provides that "a quorum of nine judges shall suffice to constitute the Court." The number of judges sitting on a case may, however, be greater.



#### 6. *Setting up the Tribunal according to the Hague Convention*

The method of setting up the temporary tribunals, as laid down in the Hague Convention of 1907, provides that the arbitrators called upon to form the tribunal must be chosen from a panel of judges created in advance and known as the list of members of the Permanent Court of Arbitration. The Convention provides that:

Each party appoints two arbitrators, of whom one only can be its national or chosen from among the persons selected by it as members of the Permanent Court. These arbitrators together choose an umpire. If the votes are equally divided, the choice of the umpire is intrusted to a third Power, selected by the parties in common accord. If an agreement is not arrived at on this subject, each party selects a different Power, and the choice of the umpire is made in concert by the Powers thus selected.

If, within two months' time, these two Powers cannot come to an agreement, each of them presents two candidates taken from the list of members of the Permanent Court, exclusive of the members selected by the parties and not being nationals of either of them. Drawing lots determines which of the candidates thus presented shall be umpire. (*Supra*, Annex II, Art. 45)

#### 7. *Other Methods of Setting up the Tribunal*

Some post-war treaties determine the procedure for the setting up of their temporary tribunals by a reference to this provision without any additions (e. g., United States-Liberia, No. 60, Art. 1). Frequently, however, the treaties provide for additions or changes in regard to this procedure. Thus, the treaty between Germany and Denmark requires that the president of the tribunal shall be appointed directly by the parties by common consent, instead of being selected by the arbitrators (No. 68, Art. 5). To increase the authority of the tribunal, the treaty concluded between Germany and Switzerland in 1921 requires that each party shall appoint one arbitrator only of its own choosing, while all other members of the tribunal must have the approval of both disputants. This provision has been frequently adopted in later treaties. It reads, "Each Party shall appoint one arbitrator by its free choice. The Parties shall nominate jointly three other arbitrators, one of whom shall be the umpire" (No. 7, Art. 6). These three members must be chosen from other countries than those involved in the dispute, and "if one of the judges jointly elected, after having been appointed, acquires the nationality of one of the Parties, takes up his domicile in its territory or enters its service, either Party may claim that he be replaced." <sup>6</sup>

<sup>6</sup> Any disputes that may arise as to the existence of such conditions are to be settled by the other four arbitrators, the chair will be taken, in such instances, by the oldest of the arbitrators jointly elected, and if the votes are equally divided, he will have the casting vote.

### 8. *Personal Qualifications of Arbitrators*

Some treaties further stipulate that the persons chosen as arbitrators must be of "the highest reputation, both for their moral qualities and for their professional ability" (cf Washington Convention of 1923, No 9, Art 4) <sup>6</sup> The Hague Convention requires in this respect that the arbitrator be "of known competency in questions of international law" and "of the highest moral reputation" (*supra*, Annex II, Art 44)

To guarantee the impartiality of the tribunal the Washington Convention of 1923 provides that

members of the Tribunal are barred from the exercise of their functions in any matters in which they may have material interest or in relation to which they may have appeared in any capacity before a National Tribunal a Tribunal of Arbitration or of any other character, or before a Commission of Inquiry. This disability shall apply also whenever said members have acted in the aforementioned matters as counsel or agents of any of the Parties or have rendered a professional opinion (No 9 Art 20)

### 9 *The Two Existing Panels of Arbitrators.*

The selection of the arbiters may either be made freely from among any competent persons known to the parties, or the choice may be restricted to a list of arbitrators drawn up in advance. Two such panels of arbitrators exist, one known as the list of members of the Permanent Court of Arbitration at The Hague and the other as the list of arbitrators of the International Central American Tribunal. When the panel of the Permanent Court of Arbitration was created, each contracting party was allowed to select four arbitrators for the list, which now contains over 145 names <sup>7</sup> The list of the International Central American Tribunal, when finally established, will contain thirty arbitrators, six nominees of each contracting state <sup>8</sup> The list of members of the Permanent Court of Arbitration is deposited with a Permanent International Bureau at The Hague,

<sup>6</sup> This Convention gives the following details as regards the personal qualifications of the arbitrators: "They must be or have been Heads of States, Cabinet Ministers, members of the highest Court of Justice in their country, or Ambassadors or Ministers Plenipotentiary or members of some International Court of Arbitration, or Permanent International Court, or representatives of their Government before such courts," or "meet the qualifications required by the laws of each country to be Judge of the Supreme Court," or be "Professors of International Law" or "counsel who are entitled to practice before the Supreme Court of the United States" (No 9, Arts. 4 and 5)

<sup>7</sup> See *Rapport du Conseil Administatif de la Cour Permanente d'Arbitrage*, 28<sup>ème</sup> année (The Hague, 1929), pp. 25-43

<sup>8</sup> Cf Washington Convention of 1923 (No 9, Arts. 2 and 3)

which has been created as the registry of the Court. The Ministry of Foreign Affairs of Honduras keeps the list of arbitrators chosen for the International Central American Tribunal

Through the creation of these two panels, the setting up of agencies for the solution of international disputes has been much facilitated. However, it must be remembered that the arbitral tribunals of the Permanent Court of Arbitration and the Central American Tribunal are never constituted in advance, and that their creation depends upon the cooperation of the parties after the dispute has arisen

#### 10. *Setting up the Tribunal in Case of Disagreement between the Parties*

In case the parties do not agree as to the constitution of the tribunal, the Hague Convention, as cited above, recommends recourse to the help of friendly Powers. The Hague procedure is somewhat complicated and imperfect in this respect, for, if one party should fail to appoint the third Power mentioned, the arbitral tribunal cannot be set up. The post war treaties provide more satisfactory solutions for this problem.

The Helsingfors Convention of 1925 provides that, if no agreement can be reached concerning the president of the tribunal, 'the duty of appointing shall devolve upon the President of the Permanent Court of International Justice (No 34 Art 10). The treaty between Sweden and Poland refers in this respect to a head of a state, stipulating that, in default of agreement, the President of the Swiss Confederation shall make the necessary selection, and adding explicitly "upon the sole request of one party" (No 40, Art 14). The Convention for the International Central American Tribunal has recourse to selection by lot of a somewhat complicated character (No 9, Art 8).

The most satisfactory provision in this respect would seem to be that by which the conciliation commission permanently set up between the two countries appoints the arbitral tribunal, as is provided by the treaty between Germany and Switzerland.

Either party may request the Permanent Board of Conciliation [to constitute the tribunal] if one party has not nominated the arbitrator for whose appointment it is responsible, or when the Parties concerned cannot agree upon the choice of arbitrators to be jointly nominated, or upon the umpire (No 7, Art 8).

In order to insure that the arbitrators appointed shall proceed to the meeting place of the tribunal, the Washington Convention pro-

vides that the arbitrators must meet, at the latest, within sixty days "after the receipt of notice of the last appointment" (No. 9, Art. 8). "Failure to attend on the part of any of the three arbitrators, within the stated periods of time, shall be deemed sufficient cause for his substitution" (No. 9, Art. 15).

If, after the election of an arbitrator, he shall retire for any reason, his successor shall be chosen in the manner laid down for the original appointment (e. g., Germany-the Netherlands, No. 66, Art. 5).

Since the opening of the Permanent Court of International Justice on February 15, 1922, the parties to an interstate dispute can renounce the complicated procedure of electing arbitrators anew for each case, and can refer their controversy to this permanent tribunal, which consists of fifteen judges, representing the main forms of civilization and the principal legal systems of the world.\*

## SUBMISSION OF THE DISPUTE TO THE TRIBUNAL

### 11. *The Compromis of Arbitration*

It is a characteristic feature of international arbitral procedure that the tribunal takes cognizance of the dispute upon the presentation of a special act, drawn up if possible by the disputants themselves, formulating the questions to be decided by the tribunal and laying down the procedure in the particular case.<sup>10</sup> This act submitting a dispute to the arbitrators is known as the agreement, special agreement, agreement of reference, agreement of arbitration, *Schiedsordnung*, or *compromis*, sometimes also as the convention of arbitration or special treaty (No. 122).

(a) *Contents of the Compromis*. — This agreement embraces everything necessary for the functioning of an international tribunal in the particular case concerned. In a case of optional arbitration the fundamental element of the *compromis* is the consent of the parties to a settlement by arbitration, without which no sovereign and independent state can be brought before an international tribunal. This is usually followed by a statement of the points to be decided by the arbitrators, the constitution of the arbitral tribunal, and the laying down of its procedure. A recent example of such a special agreement, not concluded by virtue of a general arbitration treaty, is the *compromis* concerning the Free Zones of Upper Savoy and the District of Gex, signed on October 30, 1924, by France and Switzerland.<sup>11</sup>

\* For details on the Court, see literature cited *infra*, Bibliography, section IV.

<sup>10</sup> There are certain exceptions to this general rule, which will be discussed below.

<sup>11</sup> *Supra*, Chap. I, note 8.

The contents of a *compromis* in cases of obligatory arbitration are simpler. The preceding general arbitration treaty, by virtue of which the *compromis* is drawn up, has already set forth the agreement of the parties to arbitrate the case. A *compromis* concluded under such conditions may determine

the subject of the dispute, any special powers which may be accorded to the tribunal, the composition and seat of the tribunal, the amount of the sum which each party shall be obliged to deposit in advance to defray the expenses, the rules to be observed with regard to the form and time limits of the proceedings, and any other detail that may be considered necessary. (Germany-Switzerland, No. 7, Art. 7.)

Such details may include the language in which the decision of the tribunal must be given and the apportionment of costs.

A necessary constituent element of any *compromis* is a statement of the points to be submitted to the arbitrators. Such a statement may provide that the arbitral tribunal shall pass on all points at issue between the parties, or, on the other hand, that only certain points of the dispute shall be submitted to the arbitrators.<sup>12</sup> Another most important matter to be included in the *compromis* is the rules upon which the tribunal is to base its decision, if this question has not been definitely settled by preceding agreements. It is essential to indicate whether the parties expect the tribunal to render its decision according to the principles of international law, or *ex aequo et bono*.<sup>13</sup>

(b) *Conclusion of the Compromis.* The drafting of the *compromis* is decisive as regards the services which the arbitral tribunal can perform in connection with a dispute and is of the utmost importance. It has, therefore, been urged that the same precautions should be taken in drawing up the *compromis* as in concluding an international treaty, and that in order to become effective it must have the approval of parliamentary bodies. On the other hand, it has been argued that the conclusion of a *compromis* is a step toward the preservation of peace and that, therefore, the procedure for its conclusion should be simplified as much as possible and should be left to the discretion of the executive powers of the parties.

The practice of states as regards the conclusion of the *compromis* has never been uniform.<sup>14</sup> So far as cases of optional arbitration are concerned, the question whether the *compromis* needs ratification

<sup>12</sup> Cf. in this respect the *compromis* on the Free Zones of Upper Savoy and the District of Gex, discussed in Chap. I, p. 974.

<sup>13</sup> Cf. discussion *infra*, pp. 1050-1051.

<sup>14</sup> Cf. H. Lammasch, in *Handbuch des Völkerrechts*, V, part 2, pp. 111 *et seq.*

has never been settled and might be answered differently according to the various constitutional laws of the parties or the political importance of the case. As regards the *compromis* concluded in execution of an obligatory arbitration treaty, the post-war agreements have cleared the situation so far that it can now be stated as a general rule that this *compromis* does not require submission to legislative powers. One government alone, that of the United States, still insists explicitly in its arbitration treaties upon the submission of the *compromis* to the Senate; this provision of the United States treaties will be discussed later as forming an exception to the general rule.

The *compromis* of the post-war treaties is concluded "by an exchange of notes between the governments of the contracting parties" (e. g., Hungary-Switzerland, No. 19, Art. 13). This statement, contained in numerous treaties, can mean only that the drawing up of the *compromis* must not be looked upon as the conclusion of a treaty. If two governments cannot, by an exchange of notes, agree upon the formulation of the *compromis* within a "reasonable time," or, as the treaty between Germany and Switzerland states, "within a period of six months after one party concerned has notified the other of its desire to refer the dispute to arbitration" (No. 7, Art. 8), an international commission or an arbitral tribunal will be requested to draw up the *compromis*. The special agreement of the parties is replaced by the decision of an international organ, which is final. The *compromis* in such a case is imposed on the dissenting parties, and because of their lack of consent to this act, it has been distinguished from the other type of document by the name of 'forced *compromis*.' <sup>15</sup>

## 12. The Forced Compromis

The treaties have created three different possibilities for the drawing up of the forced *compromis*. Frequently the following provision can be found:

If the *compromis* cannot be concluded within the stipulated period, it shall be replaced compulsorily (*il y sera obligatoirement suppléé*) according to the procedure provided for in Part IV of the Hague Convention of (October 18, 1907, for the Pacific Settlement of International Disputes (E. g., Poland-Switzerland, No. 35, Art. 15.)

Article 54 of the Hague Convention provides for such cases that "the *compromis* shall be settled by a commission consisting of five

<sup>15</sup> Cf. Max Huber, in *Jahrbuch des öffentlichen Rechtes der Gegenwart*, II (1908), 495.

members." The constitution of this special commission is regulated in the same manner as the setting up of an arbitral tribunal. Since the creation of permanent conciliation commissions, the post-war treaties often charge such commissions with the formulation of the forced *compromis*, as for instance the treaty between Germany and Sweden (No. 28, Art. 8), which provides:

Either party may request the Permanent Board of Conciliation to establish the *compromis*. The Permanent Board of Conciliation shall, within two months from the date of request, settle the terms of the *compromis*, the subject of the dispute being determined on the basis of the statements submitted by the parties

If the arbitral tribunal is already set up, it is natural that the settlement of the *compromis* should be referred to the tribunal itself, and some treaties state:

If within six months following the date upon which one of the parties has addressed to the other a request for the submission of the dispute to arbitration, the *compromis* provided for by the said Convention of The Hague has not been concluded, it shall be drawn up by the arbitral tribunal upon the request of one of the parties (Belgium-Denmark, No. 79, Art. 17)

An outstanding improvement in arbitration procedure achieved since the World War is the general introduction of this forced *compromis*. A possible disagreement of the parties as to the act instituting the arbitral procedure no longer entails the failure of pacific methods.

### 13. *The Compromis in the Treaties of the United States*

The treaties signed and ratified by the United States of America up to the end of 1928 have not adopted this general improvement in regard to the conclusion of the *compromis* of arbitration, for they not only omit provisions for a forced *compromis*, but they explicitly require that each *compromis* shall be submitted to the Senate of the United States for its advice and consent. For instance, the treaty between France and the United States, signed February 6, 1928, provides;<sup>16</sup> "The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of France in accordance with the constitutional laws of France" (No. 95, Art. 2). According to the con-

<sup>16</sup> For literature on this treaty see *infra*, Bibliography, section V (b), under Anderson and Hudson.

stitutional law of the United States,<sup>17</sup> the "advice and consent of the Senate" requires an affirmative vote of two-thirds of the senators present. Therefore, such treaties provide that a minority of a legislative body shall have the power to refuse arbitral procedure each time that a dispute arises. At the moment when the general arbitration treaty should be applied to a practical case, the promise to arbitrate will be reconsidered in the light of the dispute which has arisen, and cannot be enforced if one party refuses its consent to the *compromis*. To conclude an undertaking to arbitrate with the explicit reservation that it shall not be enforced, if a case should actually arise, without the renewed consent of all parties, does not constitute a far-reaching engagement. Such treaties of the United States can, therefore, hardly be classified with the rest of the post-war agreements as instituting obligatory arbitration, for it must be admitted that the obligation to arbitrate under such treaties becomes, in fact, optional at the very moment when it should take effect.<sup>18</sup> The provisions of the United States treaties recall the stage of development reached at the end of the last century, when states still hesitated to replace optional by obligatory arbitration. They are somewhat out of place in a period which has introduced the forced *compromis* as a general rule of arbitral procedure, and which is about to replace obligatory arbitration by compulsory adjudication.

#### 14 *Omission of the Compromis in Arbitral Procedures*

A few post-war agreements provide that in case of disagreement of the parties as to the terms of the *compromis*, the tribunal "shall decide on the basis of the contentions submitted to it" by the parties (e.g., Argentina-Switzerland, No. 32, Art. 3). Instead of the complicated procedure connected with a forced *compromis*, this treaty simply abandons the special arbitration agreement altogether. This omission of the *compromis* has opened the way for a new form of procedure in international law, the citation of the opposing party before an international tribunal independently of its consent.

In order to make possible such a procedure from the practical point of view, it is necessary that the tribunal be established in advance, rather than created after a dispute has arisen. The institution of temporary tribunals is extremely difficult if one of the

<sup>17</sup> Cf. Senate Documents, 68th Cong., 1st sess., XVIII (Washington, 1924), 390.

<sup>18</sup> On January 5, 1920, the Government of the United States for the first time signed an arbitration treaty providing for a forced *compromis*. Cf. the General Treaty of Inter-American Arbitration, *supra*, Annex IV, b, Art. 4.



parties is determined to oppose a judicial decision. The procedure of citing a government before an international tribunal presupposes, therefore, the existence of a permanent international court.

15. *Recourse to the Permanent Court of International Justice  
upon the Request of One Party*

One of the greatest achievements in the field of pacific settlement, after the war, was the establishment of such a Permanent Court of International Justice at The Hague in 1922. Since the creation of this Court it has become possible for a government to compel the opposing party to adjudicate their differences before the Court, and a considerable number of treaties<sup>19</sup> signed during the last few years have provided such a procedure of compulsory adjudication for future disputes. Thus thirty-four governments<sup>20</sup> have already put into force Article 36, paragraph 2, of the Statute of the Court accepting the jurisdiction of the Court in regard to legal disputes between themselves "as compulsory *ipso facto* and without special Convention." This means, in other words, that a party can institute judicial proceedings by a unilateral application addressed in writing to the Registrar of the Court (Statute, Art. 40).

This provision (Article 36) of the Statute of the Permanent Court restricts compulsory adjudication to legal disputes. Many bipartite treaties have followed this example by accepting the compulsory jurisdiction of the Court in disputes of a legal nature only. Some treaties, however, have gone further and instituted compulsory adjudication for any kind of dispute between the parties. The first treaty of this kind was concluded on September 20, 1924, between Italy and Switzerland (No. 29). It provides:

"If the *compromis* is not drawn up within three months from the day on which one of the Parties was requested to submit the matter for judicial settlement, either Party may bring the question before the Court of Justice by a simple application. (Art. 16.) If, in the opinion of the Court, the case is not of a juridical nature, the Parties agree that it shall be settled *ex aequo et bono*. (Art. 15.)

Although a great number of post-war treaties have made it possible for the parties to cite each other before the Permanent Court of International Justice, most of these agreements provide that the disputants shall try to establish a *compromis* before resorting to the Court on a unilateral application. The procedure of compulsory

<sup>19</sup> Cf. the numerous treaties referred to in Appendix A as containing provisions for compulsory adjudication.

<sup>20</sup> For details, see *supra*, No. 120.

adjudication upon the sole request of one party can be resorted to under such treaties only if the *compromis* is not drawn up within a certain time <sup>21</sup>

## RULES OF PROCEDURE AND THE DECISION OF THE TRIBUNAL

### 16 *Details of Arbitral Procedure*

In regard to the proceedings before the tribunal, the treaties are generally very brief <sup>22</sup> and simply refer to the rules of procedure laid down in the Hague Conventions for the Pacific Settlement of International Disputes of 1899 and 1907 (e g, Bolivia Venezuela, No 4, Art 2, and Finland Sweden, No 56, Art 4) and the Statute of the Permanent Court of International Justice of 1920 (e g, Great Britain Siam, No 50, Art 1). The reference to the Hague Convention of 1907 is often accompanied by the statement that it "shall continue to be applicable to relations between the contracting parties, even if one or both of them denounce the Convention" (e g, Germany Switzerland, No 7, Art 19).

Any special desires of the parties as to details of procedure may always be expressed in the *compromis*. The Helsingfors Convention of 1925 (No 34, Art 20) explicitly states this and advises the parties to indicate in the *compromis* "the mode of procedure".

If the tribunal should find itself without instructions in regard to a particular point of procedure, it has been explicitly empowered in a number of treaties to fill such gaps by its own decision (e g, Germany Switzerland, No 7, Art 19).

### 17 *Provisional Measures during Proceedings*

During the course of judicial proceedings the parties are bound to abstain from any action which might aggravate the dispute, and the treaties generally empower the tribunal to impose provisional measures upon the parties. The provision to this effect, which is found in a great number of treaties, reads.

In any case and particularly if the question on which the Parties differ arises out of acts already committed or on the point of commission the arbitral tribunal or the Permanent Court of International Justice, acting in accordance with Article 41 of its statute, shall lay down within the shortest pos-

<sup>21</sup> For literature on the compulsory jurisdiction of the Court, see *infra* Bibliography, section V (b), under Baker, Borel and Politis, Hammarström, and Joder.

<sup>22</sup> The Washington Convention for the Establishment of the International Central American Tribunal of 1923 (No 9) alone lays down detailed rules for arbitral procedure, which follow, however, in many respects the provisions of the Hague Conventions.

sible time the provisional measures to be adopted. . . . [The Parties] undertake respectively to accept such measures, to abstain from all measures likely to have a repercussion prejudicial to the execution of the decision . . . and, in general, to abstain from any sort of action whatsoever which may aggravate or extend the dispute. (E. g., Locarno treaty, Belgium-Germany, No. 45, Art. 10.)

### 18. *Basis of Decision*

The post-war treaties have given special attention to the rules governing the decision of the tribunal, and have cleared up to a considerable extent this somewhat obscure problem.<sup>22</sup>

The Hague Conventions of 1899 and 1907 provided that the decision of an arbitral tribunal should be given "on the basis of respect for law" (*supra*, Annex II, Art. 37). A number of arbitration treaties instructed the tribunal to base its decision "on the principles of law and equity."<sup>24</sup> The statute of the Permanent Court of International Justice replaced such general references by a provision (Art. 38) reading as follows:

The Court shall apply: 1. International conventions, whether general or particular, establishing rules expressly recognized by the contesting States; 2. International custom, as evidence of a general practice accepted as law; 3. The general principles of law recognized by civilized nations; 4. Subject to the provision of Article 50, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto.

This provision is to be found in a number of post-war treaties, which thus provide that arbitral tribunals shall follow the same principles of decision as the Permanent Court of International Justice (e. g., Czechoslovakia Poland of 1925, No. 39, Art. 19).<sup>25</sup>

The Statute of the Permanent Court and numerous post-war treaties distinguish between two different kinds of decisions - decisions based on law and decisions *ex aequo et bono*.

(a) *Law*. — If the parties do not explicitly provide otherwise, the judges of the Permanent Court or the arbitral tribunal will render a decision according to existing rules of law as laid down in conventions, as created by international custom, or as derived from general principles of law recognized by civilized nations.

<sup>22</sup> Cf. R. Y. Hedges, "Basis of International Decisions," in *British Year Book of International Law*, 1926, p. 110.

<sup>24</sup> Cf., e. g., Special Agreement between the United States and Norway for the Submission to Arbitration of Certain Claims of Norwegian Subjects, of June 30, 1921, Art. 1. See Permanent Court of Arbitration, *Proceedings of this case* (The Hague, 1922), p. 5.

<sup>25</sup> For this reason it is impossible to assert that arbitral procedure leads to a different kind of decision from adjudication by the Permanent Court of International Justice.

The Statute of the Permanent Court and those treaties which have copied its Article 38 indicate at the same time the auxiliary means which may be used by the tribunal to determine the existence of rules of law. The judges and arbitrators are referred to judicial decisions and to the teachings of the most highly qualified publicists. But the opinions expressed in such publications and cases are in no way binding upon the tribunal. This is free to form its own independent opinion as to the existence of rules of law.<sup>26</sup> Judicial decisions, like the teachings of publicists, will be used only as reference material for international law, or, as the English text of the Statute states, "as subsidiary means for the determination of rules of law."<sup>27</sup>

The sources upon which the decision must be based are: rules which have been explicitly agreed to and laid down in conventions, rules derived from the practice of states and accepted as law, and rules derived from general legal principles recognized by civilized nations.<sup>28</sup>

In addition to these three sources of law some treaties contain a provision which reads:

If in a particular case, the legal bases mentioned above contain gaps, the tribunal shall give an award in accordance with the principles of law which, in its opinion, should govern international law. For this purpose it shall be guided by the teachings of the most highly qualified publicists and by judicial decisions. (E. g., Germany Switzerland, 1921, No. 7, Art. 5.)

- This provision raises the question whether a silence on the part of international law is to be interpreted in the sense of such treaties as a gap which could be filled by the tribunal.<sup>29</sup> International law recognizes that certain matters, although they may form the subject of, and even cause, an international dispute, are "domestic questions," the settlement of which is left entirely to the national legislation of each state concerned. If international law is silent as to the regulation of such matters, this non-interference is intentional and cannot be regarded as an omission. In each case, therefore, the tribunal, before filling gaps, has to ascertain whether the silence is intentional or not. This preliminary question can be decided only

<sup>26</sup> The principle of *stare decisis* is not recognized in international procedures. Cf. Article 50 of the Statute of the Permanent Court. "The decision of the Court has no binding force except between the parties and in respect of that particular case."

<sup>27</sup> The French text is *comme moyen auxiliaire de détermination des règles de droit*.

<sup>28</sup> These three sources are usually formulated in the treaties in the same terms as in Article 38 of the Statute. The treaty between Germany and Switzerland of 1921 has a slightly different wording (No. 7, Art. 5).

<sup>29</sup> Cf. Walther Burckhardt, *Die Unvollkommenheit des Völkerrechts* (Berne, 1923); *Die Lücken des Gesetzes und die Gesetzesauslegung* (Berne, 1925); und *Die Organisation der Rechtsgemeinschaft* (Basel, 1927), pp. 105 *et seq.*

by an interpretation of general principles of international law, and, if the tribunal proceeds to fill a gap, it must base the new rule upon such general legal principles. Whether this function of the tribunal is called "the filling of gaps" or "the application of the general principles of law" makes no substantial difference in the final result.<sup>30</sup>

The difference between Article 38 of the Statute and the Swiss-German formula, with its additional statement as to the filling of gaps, appears, therefore, to be a difference of form only. In substance, both provisions instruct the tribunal to render a decision according to the definite rules of international law, or, if such are lacking, in harmony with general principles of law.

(b) *Ex aequo et bono*. — In opposition to decisions based on law, many post-war treaties, like the Statute of the Permanent Court, provide that the tribunal may render a decision *ex aequo et bono*. The treaty concluded by Germany and Sweden in 1924, for instance, states: "If both parties agree, the tribunal, instead of basing its decision on principles of law, can decide *nach billigem Ermessen*" [i. e., *ex aequo et bono*] (No. 28, Art. 5). In this case the arbitrators or judges will decide according to what they consider to be "equitable and right." The tribunal will base its decision, not on rules of law, but on what it believes to represent justice<sup>31</sup> in the particular case. Such a decision, therefore, may or may not be in harmony with international law. It will differ from a settlement according to law whenever international law would fail to guarantee equitable and just decision in the particular case.

The Statute of the Permanent Court of International Justice provides that, as a general rule, decisions shall be based on law, but adds that "this provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto" (Art. 38).

The treaty concluded between Belgium and Sweden in 1926 (No. 65) introduced a general test to determine in advance which disputes should be decided according to law and which *ex aequo et bono*. "Any dispute . . . with regard to which the parties make a claim of right one against the other" (Art. 1) is to be submitted to the Permanent Court of International Justice for a decision based on the law. All other disputes, which are not claims of right and in which

<sup>30</sup> Cf. Benjamin N. Cardozo, *The Nature of the Judicial Process* (New Haven, 1921).

<sup>31</sup> Justice might be defined for this purpose as the customary morality of right-minded men and women (cf. Cardozo, *The Nature of the Judicial Process*, p. 89); or as "das richtige Recht" (R. Stammler, *Die Lehre von dem richtigen Rechte*, Berlin, 1902).

conciliation has failed, are to be settled by an arbitral tribunal *ex aequo et bono* (Art. 17). All disputes, therefore, which have not been formulated by the parties as claims of right, will be adjudicated under this treaty *ex aequo et bono*.

The treaty concluded between Italy and Switzerland in 1924 (No. 29) also provides in advance which disputes shall be settled according to law and which *ex aequo et bono*. The test is whether the dispute is of a juridical nature. The treaty, which refers any dispute between the parties to the Permanent Court of International Justice if conciliation has failed, states in Article 15: "If, in the opinion of the Court, the case is not of a juridical nature, the parties agree to its being settled *ex aequo et bono*."

It is the task of the Court under this treaty to decide when a decision *ex aequo et bono* shall replace a decision according to law.

The Belgian-Swedish and the Swiss-Italian formulas, both of which have been adopted by a number of later treaties, have in common the principle that disputes of a juridical nature, or so-called claims of right, are to be submitted to a decision of law, while in the case of all other controversies a decision *ex aequo et bono* is provided for in advance.

(c) *Principles of Law and Equity*. — The new series of arbitration treaties of the United States, signed since February, 1928, refer to disputes "justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity" (e. g., United States-France, No. 95, Art. 2). The arbitration treaties concluded in 1926 by the Scandinavian countries also instruct the tribunal to render a decision "in accordance with the principles of law and equity" (cf. e. g., Sweden-Finland, No. 56, Art. 2).<sup>32</sup> What is the meaning of this formula?

In the legal language of Anglo-Saxon countries the term "equity" has a technical significance and refers to the rules developed by a special type of courts, the so-called courts of equity originally under the jurisdiction of the Lord Chancellor, in opposition to the rules of the common law as administered by the ordinary courts. The distinction between rules of equity and rules of law thus refers to the historical development of two sets of rules, which, as they are now both equally valid, would be considered, in the language of Continental lawyers, as two different branches of positive law. A similar situation existed in Rome at the time of the Emperors. This period inherited the law derived from the Twelve Tables and the law de-

<sup>32</sup> For literature, see *infra*, Bibliography, section V (b), under Yotis.

veloped by the Praetors, both sets of rules existing side by side and forming part of the system of positive law.

It is evident that the term "equity," if used in international law, cannot be interpreted in such a technical sense,<sup>33</sup> since the development of international law has not followed the same lines. There has been no Praetor and no Chancellor in the history of international courts, at least up to the present time, and, therefore, one cannot distinguish, in this field, between rules developed by courts of equity and rules administered by ordinary courts. Equity in international arbitration treaties can, therefore, be taken only in its general sense, as equivalent to the French *équité* (cf. No. 56, Art. 2), or the German *Billigkeit* (cf. No. 7, Art. 5).

If the tribunals are instructed to give a decision according to law and equity, one might interpret this formula, with Mérygnac, to mean that the tribunal shall "apply law with equity."<sup>34</sup> But this is how any able judge, whether national or international, administers law. The application of law demands a continuous consideration of the principles of equity; and if the rules of law should permit of two solutions, an equitable and an inequitable one, the judge is always obliged to choose that which is equitable. Law and equity are in this sense complementary to one another in the making of any judicial decision. The rôle of equity as a supplement to law (*aequitas supplendi causa*) is a rule generally admitted, and binds national as well as international tribunals, even if there is no explicit reference in arbitration treaties to equity.

The instruction to decide according to the principles of law or equity might also be interpreted as allowing the tribunal to disregard rules of law if they should, in a particular case, lead to an inequitable solution. Equity would then not only supplement but also correct the law. Such use of equity (*aequitas corrigendi causa*) is still a matter of controversy, and the treaties reflect different conceptions. The treaty establishing the Central American Court instructs the tribunal to base its decision on principles of international law (No. 9, Art. 13): As it is a principle of international law that it should be applied equitably, equity can certainly be taken into consideration by the Central American Court in so far as it is supplementary to the law. But the use of equity *corrigendi causa* does not appear to be possible under such provisions, where reference is made exclusively to law.

<sup>33</sup> This was again clearly stated in the award rendered on October 13, 1922, by the arbitral tribunal set up by the United States and Norway with regard to certain claims of Norwegian subjects. See *Proceedings*, pp. 139 *et seq.*

<sup>34</sup> A. Mérygnac, *L'arbitrage international* (Paris, 1895), p. 295.

The treaty between Germany and Finland of 1925 (No. 36) also prescribes that the tribunal as a general rule shall decide according to law, but adds: "If the Parties agree, the Tribunal may, instead of basing its decision on legal principles, give an award in accordance with considerations of equity." This treaty expresses the principle that equity may overrule law, but only if the parties in a particular case agree explicitly to such a use of equity.

Most of the post-war treaties have adopted the principle, already contained in Article 38 of the Statute of the Court, that the tribunal, as a general rule, may take into consideration equity in so far as it supplements law, but that the special consent of the parties is necessary in order to overrule law in a particular case by equitable considerations.

The treaty between Switzerland and Italy of 1924 (No. 29), and the later agreements for which it has served as model, leave it to the Permanent Court of International Justice to decide what rôle equity shall play in each case<sup>35</sup> — whether it shall be applied only *supplendi causa* or also *corrigendi causa*. The same seems to be true in regard to treaties which instruct the tribunal in a general way to "apply principles of law or equity." Here also it will be the task of the tribunal to determine in each case how far equity may be taken into consideration and whether it may overrule law.<sup>36</sup>

From the foregoing it follows that according to the post-war treaties equity may play a double rôle in the adjudication of international disputes. It can in all cases supplement the law as *acquitas supplendi causa*, but all treaties do not admit that it can overrule law as *acquitas corrigendi causa*. A number of treaties, however, have explicitly assigned such a rôle to equity, by stipulating that the tribunal "instead of basing its decision on legal principles, shall decide *ex aequo et bono*" (cf. No. 7, Art. 5).

### 19. Execution and Interpretation of Decision

The decision of the tribunal, when duly pronounced and notified, is absolutely binding upon the parties, and some treaties add explicitly that the "parties shall act upon the decision in good faith" (e. g., Italy-Switzerland, No. 29, Art. 18).<sup>37</sup>

<sup>35</sup> Cf. No. 29, Art. 15, par. 2.

<sup>36</sup> Cf. in this respect the interesting award rendered on January 22, 1920, by the British-American Claims Commission in the case of the Cayuga Indians, where the tribunal discusses at length the meaning of the formula "principles of international law and equity." See *American Journal of International Law*, XX (1926), 574 et seq.

<sup>37</sup> Cf. S. Stoykovitch, *L'autorité de la sentence arbitrale en droit international public* (Thesis, Paris, 1924), and H. Lammasch, *Die Rechtskraft internationaler Schiedsprüch* (Christiania, 1913).



A number of treaties provide that differences as to the interpretation of the decision shall be laid before the tribunal which rendered the award (e. g., Finland-Sweden, No. 56, Art. 10).

#### 20. *Revision of Decision*

The possibility of revising international decisions is not mentioned in the great majority of post-war treaties. The provision of the Hague Convention of 1907 in regard to this question continues, therefore, to be the general rule still in force. The Hague Convention (Art. 83) reads:

The parties can reserve in the *compromis* the right to demand the revision of the award. In this case and unless there be an agreement to the contrary, the demand must be addressed to the tribunal which pronounced the award. It can only be made on the ground of the discovery of some new fact calculated to exercise a decisive influence upon the award and which was unknown to the tribunal and to the party which demanded the revision at the time the discussion was closed.

Proceedings for revision can only be instituted by a decision of the tribunal expressly recording the existence of the new fact, recognizing in it the character described in the preceding paragraph, and declaring the demand admissible on this ground.

The *compromis* fixes the period within which the demand for revision must be made.

No possibility exists under this rule for a revision of the decision unless the *compromis* contains a special provision to that effect.

The Statute of the Permanent Court of International Justice changed this situation by providing that a revision of a judgment can always take place

upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court, and also to the party claiming revision, always provided that such ignorance was not due to negligence. (Art. 61.)

The Statute adds that application for revision can be admitted only if made at the latest within six months of the discovery of the new fact, and not later than ten years from the date of the sentence.

A few post-war treaties<sup>88</sup> have followed this line of development and have admitted a revision of the decision in all cases. The essential conditions laid down in the treaties for the institution of revision proceedings are three:

<sup>88</sup> Cf., e. g., convention for the establishment of an International Central American Tribunal (No. 9, Art. 19), and treaty between Germany and Switzerland (No. 7, Art. 11).

First, some new fact must have been discovered, calculated to exercise a decisive influence upon the decision.

Secondly, this fact must have been unknown to the tribunal and to the party demanding the revision, at the time the discussion before the tribunal was closed, and the ignorance of the party must not have been due to negligence.

Thirdly, the request for revision must be made within the time limit fixed in the special agreement of the parties or in the decision of the tribunal.<sup>30</sup>

## SUGGESTED PROVISIONS FOR A TREATY OF JUDICIAL SETTLEMENT

### 1. *All Disputes Submitted to Judicial Procedure*

Les Hautes Parties contractantes s'engagent réciproquement à régler par des moyens pacifiques et d'après les méthodes prévues par le présent Traité tous les litiges ou conflits, de quelque nature qu'ils soient, qui viendraient à s'élever entre eux et qui n'auraient pu être résolus par les procédés diplomatiques ordinaires.

The High Contracting Parties reciprocally undertake to settle by pacific means, and in accordance with the methods provided for in the present Treaty, all disputes or conflicts of any nature whatsoever which may arise between them and which it may not have been possible to settle by the normal methods of diplomacy.

### 2. *Conciliation Precedes Judicial Procedure*

Les Hautes Parties contractantes s'engagent à soumettre à une procédure de conciliation, préalablement à toute procédure judiciaire, tous les différends qui n'auraient pu être résolus par la voie diplomatique.

The High Contracting Parties undertake, before having recourse to any judicial procedure, to submit to a procedure of conciliation all disputes which it may not have been possible to settle through the diplomatic channel.

Il appartiendra à chacune des Hautes Parties contractantes de décider du moment à partir duquel la procédure de conciliation pourra être substituée aux négociations diplomatiques.

Each High Contracting Party shall be free to decide at what moment the procedure of conciliation may be substituted for diplomatic negotiations.

Les Hautes Parties contractantes auront toujours la liberté de convenir qu'un litige déterminé sera réglé directement par la Cour per-

The High Contracting Parties shall always be free to agree that any particular dispute shall be settled directly by the Permanent

<sup>30</sup> For literature on the subject of revision, see *infra*, Bibliography, section V (a), under Audry.

manente de Justice internationale sans recours au préliminaire de conciliation ci-dessus prévu.

Court of International Justice without resort to the preliminary conciliation procedure provided for above.

*All Disputes Submitted to the Permanent Court of International Justice upon the Sole Request of Either Party*

Si l'une des Hautes Parties contractantes n'accepte pas les propositions de la Commission permanente de Conciliation ou ne se prononce pas dans le délai fixé par son rapport, chacune d'elles pourra demander que le litige soit soumis à la Cour permanente de Justice internationale. Dans le cas où, de l'avis de la Cour, le litige ne serait pas d'ordre juridique, les Hautes Parties contractantes conviennent qu'il sera tranché *ex aequo et bono*.

Les Hautes Parties contractantes établiront, dans chaque cas particulier, un compromis spécial déterminant nettement l'objet du différend, les compétences particulières qui pourraient être dévolues à la Cour permanente de Justice internationale, ainsi que toutes autres conditions arrêtées entre elles.

Le compromis sera établi par échange de notes entre les Gouvernements des Hautes Parties contractantes. Il sera interprété en tous points par le Cour de Justice.

Si le compromis n'est pas arrêté dans les trois mois à compter du jour où l'une des Hautes Parties contractantes a été saisie d'une demande aux fins de règlement judiciaire, chaque Partie pourra saisir la Cour de Justice par voie de simple requête.

If one of the High Contracting Parties does not accept the proposals of the Permanent Conciliation Commission, or does not announce its decision within the period prescribed in the report, either Party may request that the dispute be submitted to the Permanent Court of International Justice. If in the opinion of the Court the case is not of a juridical nature, the High Contracting Parties agree to its being settled *ex aequo et bono*.

In each particular case the High Contracting Parties shall draw up a special agreement specifying clearly the subject of the dispute, the particular competence that might devolve upon the Permanent Court of International Justice, and any other conditions fixed between themselves.

The agreement shall be constituted by an exchange of notes between the Governments of the High Contracting Parties. All points contained therein shall be interpreted by the Court of Justice.

If the agreement is not drawn up within three months from the day on which one of the High Contracting Parties was requested to submit the matter for judicial settlement, either Party may bring the dispute before the Court of Justice by means of a simple application.

#### 4. *Relation of National to International Procedures*

S'il s'agit d'un différend dont l'objet, d'après la législation intérieure de l'une des Hautes Parties contractantes, relève de la compétence des autorités judiciaires ou administratives, cette Partie pourra s'opposer à ce que ce différend soit soumis aux procédures prévues par le présent Traité, avant qu'une décision définitive ait été rendue, dans les délais raisonnables, par l'autorité compétente.

La Partie qui, dans ce cas, voudra recourir aux procédures prévues par le présent Traité devra notifier à l'autre Partie son intention, dans un délai d'un an à partir de la décision susvisée.

In the case of a dispute the subject of which, according to the municipal law of one of the High Contracting Parties, falls within the competence of its judicial or administrative authorities, the Party in question may object to the matter in dispute being submitted for settlement by the methods laid down in the present Treaty until a decision with final effect has been pronounced, within a reasonable time, by the competent authority.

In such a case, the Party which desires to resort to the procedures laid down in the present Treaty must notify the other Party of its intention within a period of one year from the date of the aforementioned decision.

#### *Parties to Abstain from Prejudicial Measures during Proceedings*

Durant le cours de la procédure de conciliation ou de la procédure judiciaire, les Hautes Parties contractantes s'abstiendront de toute mesure pouvant avoir une répercussion préjudiciable sur l'acceptation des propositions de la Commission de Conciliation ou sur l'exécution de l'arrêt de la Cour permanente de Justice internationale.

During the procedure of conciliation or the judicial procedure, the High Contracting Parties shall abstain from all measures which might prejudicially affect the acceptance of the proposals of the Conciliation Commission or the execution of the judgment of the Permanent Court of International Justice.

#### 6. *Conflict between International Law and the Constitutional Law of a Party*

Si le jugement de la Cour permanente de Justice internationale déclarait qu'une décision prise ou une mesure ordonnée par une instance judiciaire ou toute autre autorité de l'une des Parties en litige, se trouvait entièrement ou

If the judgment of the Permanent Court of International Justice declares that a decision made or a measure enjoined by a court of law, or any other authority of one of the Parties to the dispute, is wholly or in part contrary to international

partiellement en opposition avec le droit international, et si le droit constitutionnel de ladite Partie ne permettait pas ou ne permettait qu'imparfaitement d'effacer les conséquences de cette décision ou de cette mesure, les Hautes Parties contractantes conviennent qu'il devrait être accordé par l'arrêt de la Cour de Justice à la Partie lésée une satisfaction équitable d'un autre ordre.

law, and if the constitutional law of that Party does not permit, or only partially permits, the consequences of the judgment or measure in question to be annulled, the High Contracting Parties agree that the judgment of the Court of Justice shall grant the injured Party equitable satisfaction in some other form.

#### 7. *Execution and Interpretation of the Judgment*

L'arrêt rendu par la Cour permanente de Justice internationale sera exécuté de bonne foi par les Hautes Parties contractantes.

The judgment given by the Permanent Court of International Justice shall be executed by the Parties in good faith.

Les difficultés auxquelles son interprétation pourrait donner lieu seront tranchées par la Cour de Justice, que chacune des Parties pourra saisir à cette fin par voie de simple requête.

Any difficulties regarding the interpretation of the judgment shall be settled by the Court of Justice, which may be resorted to for this purpose by either Party by means of a simple application.

#### 8. *Interpretation of the Treaty*

Les contestations qui surgiraient au sujet de l'interprétation ou de l'exécution du présent Traité seront soumises directement à la Cour permanente de Justice internationale par voie de simple requête de l'une ou l'autre des Parties.

Any disputes which may arise as to the interpretation or the execution of the present Treaty shall be submitted directly to the Permanent Court of International Justice by means of a simple application of either Party.

## APPENDICES



## APPENDIX A

### ALPHABETICAL LIST OF SIGNATORY STATES

Ar. = Arbitration.  
C. = Conciliation.

C. Ad. = Compulsory Adjudication,  
I. = Investigation.

States	Year	Type of Treaty	N	Page
Abyssinia, <i>see</i> Ethiopia				
Albania . . . . -United States	1928	I.	125	845
-United States	1928	Ar.	126	847
Argentina . . -Brazil - Chile - Colombia - Cuba - Dominican Republic - Ecuador - Guatemala - Haiti - Honduras - Nicaragua - Panama - Paraguay - United States - Uruguay - Ven- ezuela	1923	I.	15	77
-Switzerland	1924	Ar.	32	179
Austria . . . -Belgium - Bulgaria - Denmark - Estonia - Ethiopia - Finland - Germany - Haiti - Netherlands - Norway - Portugal - Spain - Sweden - Switzerland - Uruguay	In force since 1927	C. Ad.	120	860
-Czechoslovakia	1926	C., Ar., C. Ad.	61	388
-Hungary	1923	Ar.	14	74
Poland	1923 <sup>1</sup>	Ar.	16	82
-Poland	1926	C., Ar.	62	307
-Spain	1928	C., Ar., C. Ad.	110	768
-Sweden	1926	C., Ar., C. Ad.	67	440
-Switzerland	1924	C.	30	171
-United States	1928	I.	117	815
-United States	1928	Ar.	118	817
Belgium . . . -Austria - Bulgaria - Denmark - Estonia - Ethiopia - Finland - Germany - Haiti - Netherlands - Norway - Portugal - Spain - Sweden - Switzerland - Uruguay	In force since 1926	C. Ad.	120	860
-Denmark	1927	C., Ar., C. Ad.	70	552
-Finland	1927	C., Ar., C. Ad.	80	562
-Germany	1925	C., Ar., C. Ad.	45	285
-Luxemburg	1927	C., Ar., C. Ad.	80	624
-Poland	1928	C., Ar.	127	848
-Portugal	1927	C., Ar., C. Ad.	84	588
-Spain	1927	C., Ar., C. Ad.	85	598
-Sweden	1926	C., Ar., C. Ad.	65	422
-Switzerland	1927	C., Ar., C. Ad.	77	534
Bolivia . . . . - Colombia	1918	Ar.	1	3
-Venezuela	1919	Ar.	4	9

Abrogated.



States	Year	Type of Treaty	No.	Page
Brazil . . . . .-Argentina-Chile-Colombia-Cuba-Dominican Republic-Ecuador-Guatemala-Haiti-Honduras-Nicaragua-Panama-Paraguay-United States-Uruguay-Venezuela	1923	I.	15	77
-Great Britain	1919	I.	3	7
-Switzerland	1924	Ar., C. Ad.	20	104
Bulgaria . . . . .-Austria-Belgium-Denmark-Estonia-Ethiopia-Finland-Germany-Haiti-Netherlands-Norway-Portugal-Spain-Sweden-Switzerland-Uruguay	In force since 1921	C. Ad.	129	860
Chile . . . . .-Argentina-Brazil-Colombia-Cuba-Dominican Republic-Ecuador-Guatemala-Haiti-Honduras-Nicaragua-Panama-Paraguay-United States-Uruguay-Venezuela	1923	I.	15	77
-Great Britain	1910 <sup>1</sup>	I.	2	5
-Italy	1927	C., Ar., C. Ad.	78	544
-Spain	1927	Ar.	83	585
-Sweden	1920	C.	5	11
Colombia . . . . .-Argentina-Brazil-Chile-Cuba-Dominican Republic-Ecuador-Guatemala-Haiti-Honduras-Nicaragua-Panama-Paraguay-United States-Uruguay-Venezuela	1923	I.	15	77
-Bolivia	1918	Ar.	1	3
-Mexico	1928	Ar.	114	802
-Sweden	1927	C.	87	617
-Switzerland	1927	C., Ar., C. Ad.	86	610
Costa Rica . . . . .-Guatemala-Honduras-Nicaragua-Salvador	1923	Ar.	9	38
-Guatemala-Honduras-Nicaragua-Salvador-United States	1923	C.	10	57
Cuba . . . . .-Argentina-Brazil-Chile-Colombia-Dominican Republic-Ecuador-Guatemala-Haiti-Honduras-Nicaragua-Panama-Paraguay-United States-Uruguay-Venezuela	1923	I.	15	77
Czecho-slovakia . . . . .-Austria	1926	C., Ar., C. Ad.	61	388
-Denmark	1926	C., Ar., C. Ad.	73	504
-Germany	1925	C., Ar., C. Ad.	46	293
-Poland	1925	C., Ar.	39	232
-Sweden	1926	C., Ar., C. Ad.	53	343
-United States	1928	I.	119	818
-United States	1928	Ar.	120	820

<sup>1</sup> Abrogated.

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States	Year	Type of Treaty	No.	Page
Denmark . . . -Austria - Belgium - Bulgaria - Estonia - Ethiopia - Finland - Germany - Haiti - Netherlands - Norway - Portugal - Spain - Sweden - Switzerland - Uruguay	In force since 1921	C. Ad.	129	860
-Belgium	1927	C., Ar., C. Ad.	79	552
-Czechoslovakia	1926	C., Ar., C. Ad.	73	504
-Estonia	1926	C.	75	521
-Finland	1924	C.	22	108
-Finland	1926	C., Ar.	57	368
-France	1926	C., Ar., C. Ad.	70	480
-Germany	1926	C., Ar., C. Ad.	68	456
-Haiti	1928	C., C. Ad.	100	721
-Lithuania	1926	C., Ar., C. Ad.	74	513
-Norway	1924	C.	23	115
-Norway	1926	C., Ar.	55	357
-Poland	1926	C., Ar.	64	413
-Spain	1928	C., Ar., C. Ad.	95	702
-Sweden	1924	C.	24	121
-Sweden	1926	C., Ar.	54	351
-Switzerland	1924	C.	18	91
-United States	1928	Ar.	111	780
Dominican Republic . . -Argentina - Brazil - Chile - Colombia - Cuba - Ecuador - Guatemala - Haiti - Honduras - Nicaragua - Panama - Paraguay - United States - Uruguay - Venezuela	1923	I.	15	77
Ecuador . . . -Argentina - Brazil - Chile - Colombia - Cuba - Dominican Republic - Guatemala - Haiti - Honduras - Nicaragua - Panama - Paraguay - United States - Uruguay - Venezuela	1923	I.	15	77
-Venezuela	1921	Ar.	6	17
Estonia . . . . -Austria - Belgium - Bulgaria - Denmark - Ethiopia - Finland - Germany - Haiti - Netherlands - Norway - Portugal - Spain - Sweden - Switzerland - Uruguay	In force since 1923	C. Ad.	129	860
-Denmark	1926	C.	75	521
-Finland - Latvia - Poland	1925	C., Ar.	34	185
-Germany	1925	C., Ar.	42	256
-Sweden	1925	C.	40	243
Ethiopia (Abyssinia) -Austria - Belgium - Bulgaria - Denmark - Estonia - Finland - Germany - Haiti - Netherlands - Norway - Portugal - Spain - Sweden - Switzerland - Uruguay	In force since 1926	C. Ad.	129	860
-Italy	1928	C., Ar.	115	805

	States	Year	Type of Treaty	No.	Page
Finland . . . .	-Austria - Belgium - Bulgaria - Denmark - Estonia - Ethiopia - Germany - Haiti - Netherlands - Norway - Portugal - Spain - Sweden - Switzerland - Uruguay	In force since 1922	C. Ad.	129	860
	-Belgium	1927	C., Ar., C. Ad.	80	562
	-Denmark	1924	C.	22	108
	-Denmark	1926	C., Ar.	57	368
	-Estonia - Latvia - Poland	1925	C., Ar.	34	185
	-Germany	1925	C., Ar.	36	205
	-Italy	1928	C., Ar., C. Ad.	116	807
	-Netherlands	1928	C.	109	761
	-Norway	1924	C.	25	128
	-Norway	1926	C., Ar.	59	382
	-Spain	1928	C., Ar., C. Ad.	106	747
	-Sweden	1924	C.	26	134
	-Sweden	1926	C., Ar.	50	302
	-Switzerland	1927	C., Ar., C. Ad.	92	648
	-United States	1928	I.	107	758
	-United States	1928	Ar.	108	759
France . . . .	-Denmark	1926	C., Ar., C. Ad.	70	480
	-Germany	1925	C., Ar., C. Ad.	47	302
	-Luxemburg	1927	C., Ar., C. Ad.	90	637
	-Netherlands	1928	C., Ar., C. Ad.	97	691
	-Portugal	1928	C., Ar., C. Ad.	113	793
	-Rumania	1926	C., Ar., C. Ad.	69	472
	-Serbs, Croats, and Slovenes, Kingdom of	1927	C., Ar., C. Ad.	91	644
	-Sweden	1928	C., Ar., C. Ad.	96	683
	-Switzerland	1925	C., Ar., C. Ad.	38	226
	-United States	1928	I., Ar.	95	679
Germany . . . .	-Austria - Belgium - Bulgaria - Denmark - Estonia - Ethiopia - Finland - Haiti - Netherlands - Norway - Portugal - Spain - Sweden - Switzerland - Uruguay	In force since 1928	C. Ad.	129	860
	-Belgium	1925	C., Ar., C. Ad.	45	285
	-Czechoslovakia	1925	C., Ar., C. Ad.	46	293
	-Denmark	1926	C., Ar., C. Ad.	68	456
	-Estonia	1925	C., Ar.	42	256
	-Finland	1925	C., Ar.	36	205
	-France	1925	C., Ar., C. Ad.	47	302
	-Italy	1926	C., Ar., C. Ad.	76	527
	-Lithuania	1928	C., Ar., C. Ad.	94	670
	-Netherlands	1926	C., Ar., C. Ad.	96	431
	-Poland	1925	C., Ar., C. Ad.	48	310
	-Sweden	1924	C., Ar.	28	147
	-Switzerland	1921	C., Ar., C. Ad.	7	20
	-United States	1928	I.	103	737
	-United States	1928	Ar.	104	739
Great Britain . . . .	-Brazil	1919	I.	3	7
	-Chile	1919 <sup>1</sup>	I.	2	5
	-Siam	1925	C. Ad.	50	329

<sup>1</sup> Abrogated.

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States	Year	Type of Treaty	No.	Page
Greece . . . . . -Italy	1928	C., Ar., C. Ad.	123	825
-Rumania	1928	C., Ar., C. Ad.	99	713
-Switzerland	1925	C., Ar., C. Ad.	44	278
Guatemala . . . -Argentina - Brazil - Chile - Colombia - Cuba - Dominican Republic - Ecuador - Haiti - Honduras - Nicaragua - Panama - Paraguay - United States - Uruguay - Venezuela	1923	I.	15	77
-Costa Rica - Honduras - Nicaragua - Salvador	1923	Ar.	9	38
-Costa Rica - Honduras - Nicaragua - Salvador - United States	1923	C.	10	57
Haiti . . . . . -Argentina - Brazil - Chile - Colombia - Cuba - Dominican Republic - Ecuador - Guatemala - Honduras - Nicaragua - Panama - Paraguay - United States - Uruguay - Venezuela	1923	I.	15	77
-Austria - Belgium - Bulgaria - Denmark - Estonia - Ethiopia - Finland - Germany - Netherlands - Norway - Portugal - Spain - Sweden - Switzerland - Uruguay	In force since 1921	C. Ad.	129	860
-Denmark	1928	C., C. Ad.	100	721
Honduras . . . -Argentina - Brazil - Chile - Colombia - Cuba - Dominican Republic - Ecuador - Guatemala - Haiti - Nicaragua - Panama - Paraguay - United States - Uruguay - Venezuela	1923	I.	15	77
-Costa Rica - Guatemala - Nicaragua - Salvador	1923	Ar.	9	38
-Costa Rica - Guatemala - Nicaragua - Salvador - United States	1923	C.	10	57
Hungary . . . -Austria	1923	Ar.	14	74
-Italy	1927	C., Ar., C. Ad.	81	572
-Switzerland	1924	C., Ar., C. Ad.	19	97
Italy . . . . . -Chile	1927	C., Ar., C. Ad.	78	544
-Ethiopia	1928	C., Ar.	115	805
-Finland	1928	C., Ar., C. Ad.	110	807
-Germany	1926	C., Ar., C. Ad.	70	527
-Greece	1928	C., Ar., C. Ad.	123	825
-Hungary	1927	C., Ar., C. Ad.	81	572
-Lithuania	1927	C., Ar., C. Ad.	88	621
-Spain	1926	C., Ar., C. Ad.	71	488
-Switzerland	1924	C., C. Ad.	20	164
-Turkey	1928	C., Ar., C. Ad.	105	741
-United States	1928	Ar.	101	725
Japan . . . . . -Switzerland	1924	Ar.	33	182
Latvia . . . . . -Estonia - Finland - Poland	1925	C., Ar.	34	185
-Sweden	1925	C.	37	210
Liberia . . . . . -United States	1926	Ar.	60	387

States	Year	Type of Treaty	No.	Page
Lithuania . . . -Denmark	1926	C., Ar., C. Ad.	74	513
-Germany	1928	C., Ar., C. Ad.	94	670
-Italy	1927	C., Ar., C. Ad.	88	621
-Sweden	1925	C.	41	249
Luxemburg -Belgium	1927	C., Ar., C. Ad.	89	628
-France	1927	C., Ar., C. Ad.	90	637
-Spain	1928	C., Ar., C. Ad.	112	782
Mexico . . . . -Colombia	1928	Ar.	114	802
Netherlands . -Austria - Belgium - Bulgaria - Den-	In force	C. Ad.	129	860
mark - Estonia - Ethiopia - Fin-	since			
land - Germany - Haiti - Norway -	1921			
Portugal - Spain - Sweden -				
Switzerland - Uruguay				
-Finland	1928	C.	109	761
-France	1928	C., Ar., C. Ad.	97	691
-Germany	1926	C., Ar., C. Ad.	66	431
-Siam	1928	C., Ar.	130	891
-Sweden	1927	C.	82	578
-Switzerland	1925	C.	52	336
Nicaragua . . -Argentina - Brazil - Chile - Colom-	1923	I.	15	77
bia - Cuba - Dominican Republic -				
Ecuador - Guatemala - Haiti -				
Honduras - Panama - Paraguay -				
United States - Uruguay - Ven-				
ezuela				
-Costa Rica - Guatemala - Honduras -	1923	Ar.	9	38
Salvador				
-Costa Rica - Guatemala - Honduras -	1923	C.	10	57
Salvador - United States				
	In force	C. Ad.	129	860
mark - Estonia - Ethiopia - Fin-	since			
land - Germany - Haiti - Nether-	1921			
lands - Portugal - Spain - Sweden -				
Switzerland - Uruguay				
-Denmark	1924	C.	23	115
-Denmark	1926	C., Ar.	55	357
-Finland	1924	C.	25	128
-Finland	1926	C., Ar.	59	382
-Sweden	1924	C.	27	141
-Sweden	1925	C., Ar.	51	330
-Switzerland	1925	C., C. Ad.	43	271
Panama . . -Argentina - Brazil - Chile - Colom-	1923	I.	15	77
bia - Cuba - Dominican Republic -				
Ecuador - Guatemala - Haiti -				
Honduras - Nicaragua - Paraguay				
- United States - Uruguay - Ven-				
ezuela				
Paraguay . . -Argentina - Brazil - Chile - Colom-	1923	I.	15	77
bia - Cuba - Dominican Republic -				
Ecuador - Guatemala - Haiti -				
Honduras - Nicaragua - Panama -				
United States - Uruguay - Ven-				
ezuela				

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	States	Year	Type of Treaty	No.	Page
Peru.....	-Venezuela	1923	Ar.	13	72
Poland.....	-Austria	1923 <sup>1</sup>	Ar.	16	82
	-Austria	1926	C., Ar.	62	397
	-Belgium	1928	C., Ar.	127	848
	-Czechoslovakia	1925	C., Ar.	39	232
	-Denmark	1926	C., Ar.	64	413
	-Estonia-Finland-Latvia	1925	C., Ar.	34	185
	-Germany	1925	C., Ar., C. Ad.	48	310
	-Serbs, Croats, and Slovenes, Kingdom of	1926	C., Ar.	72	495
	-Sweden	1925	C., Ar.	49	319
	-Switzerland	1925	C., Ar.	35	196
	-United States	1928	I.	121	822
	-United States	1928	Ar.	122	824
Portugal....	-Austria - Belgium - Bulgaria - Denmark - Estonia - Ethiopia - Finland - Germany - Haiti - Netherlands - Norway - Spain - Sweden - Switzerland - Uruguay	In force since 1921	C. Ad.	129	860
	-Belgium	1927	C., Ar., C. Ad.	84	588
	-France	1928	C., Ar., C. Ad.	113	793
	-Spain	1928	C., Ar., C. Ad.	93	662
	-Switzerland	1928	C., Ar., C. Ad.	124	834
Rumania....	-France	1926	C., Ar., C. Ad.	69	472
	-Greece	1928	C., Ar., C. Ad.	90	713
	-Switzerland	1926	C., Ar., C. Ad.	58	373
Salvador...	-Costa Rica - Guatemala - Honduras - Nicaragua	1923	Ar.	9	38
	-Costa Rica - Guatemala - Honduras - Nicaragua - United States	1923	C.	10	57
	-Uruguay	1924	Ar.	31	176
Serbs, Croats, and Slovenes, Kingdom of	-France	1927	C., Ar., C. Ad.	91	644
	-Poland	1926	C., Ar.	72	495
Siam.....	-Great Britain	1925	C. Ad.	59	329
	-Netherlands	1928	C., Ar.	130	891
Spain...	-Austria	1928	C., Ar., C. Ad.	110	768
	-Austria - Belgium - Bulgaria - Denmark - Estonia - Ethiopia - Finland - Germany - Haiti - Netherlands - Norway - Portugal - Sweden - Switzerland - Uruguay	In force since 1928	C. Ad.	129	860
	-Belgium	1927	C., Ar., C. Ad.	85	598
	-Chile	1927	Ar.	83	585
	-Denmark	1928	C., Ar., C. Ad.	98	702
	-Finland	1928	C., Ar., C. Ad.	106	747
	-Italy	1926	C., Ar., C. Ad.	71	488
	-Luxemburg	1928	C., Ar., C. Ad.	112	782
	-Portugal	1928	C., Ar., C. Ad.	93	662
	-Sweden	1928	C., Ar., C. Ad.	102	726
	-Switzerland	1926	C., Ar., C. Ad.	63	406
	-Uruguay	1922	Ar.	8	35

<sup>1</sup> Abrogated.

States	Year	Type of Treaty	No.	Page
Sweden . . . . -Austria	1926	C., Ar., C. Ad.	67	446
-Austria - Belgium - Bulgaria - Denmark - Estonia - Ethiopia - Finland - Germany - Haiti - Netherlands - Norway - Portugal - Spain - Switzerland - Uruguay	In force since 1921	C. Ad.	129	860
-Belgium	1926	C., Ar., C. Ad.	65	422
-Chile	1920	C.	5	11
-Colombia	1927	C.	87	617
-Czechoslovakia	1926	C., Ar., C. Ad.	53	343
-Denmark	1924	C.	24	121
-Denmark	1926	C., Ar.	54	351
-Estonia	1925	C.	40	243
-Finland	1924	C.	26	134
-Finland	1926	C., Ar.	56	362
-France	1928	C., Ar., C. Ad.	96	683
-Germany	1924	C., Ar.	28	147
-Latvia	1925	C.	37	219
-Lithuania	1925	C.	41	249
-Netherlands	1927	C.	82	578
-Norway	1924	C.	27	141
-Norway	1925	C., Ar.	51	330
-Poland	1925	C., Ar.	40	319
-Spain	1928	C., Ar., C. Ad.	102	726
-Switzerland	1924	C.	17	84
-United States	1924	Ar.	21	107
-United States	1928	Ar.	128	858
-Uruguay	1923	C.	11	62
Switzerland. . -Argentina	1924	Ar.	32	179
-Austria	1924	C.	30	171
-Austria - Belgium - Bulgaria - Denmark - Estonia - Ethiopia - Finland - Germany - Haiti - Netherlands - Norway - Portugal - Spain - Sweden - Uruguay	In force since 1921	C. Ad.	129	860
-Belgium	1927	C., Ar., C. Ad.	77	534
-Brazil	1924	Ar., C. Ad.	20	104
-Colombia	1927	C., Ar., C. Ad.	86	610
-Denmark	1924	C.	18	91
-Finland	1927	C., Ar., C. Ad.	92	652
-France	1925	C., Ar., C. Ad.	38	226
-Germany	1921	C., Ar., C. Ad.	7	20
-Greece	1925	C., Ar., C. Ad.	44	278
-Hungary	1924	C., Ar., C. Ad.	19	67
-Italy	1924	C., C. Ad.	29	164
-Japan	1924	Ar.	33	182
-Netherlands	1925	C.	52	336
-Norway	1925	C., C. Ad.	43	271
-Poland	1925	C., Ar.	35	196
-Portugal	1928	C., Ar., C. Ad.	124	834
-Rumania	1926	C., Ar., C. Ad.	58	373
-Spain	1926	C., Ar., C. Ad.	63	406
-Sweden	1924	C.	17	84
Turkey . . . . -Italy	1928	C., Ar., C. Ad.	105	741

# APPENDIX A

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States	Year	Type of Treaty	No.	Page
United States - Albania	1928	I.	125	845
- Albania	1928	Ar.	126	847
- Argentina - Brazil - Chile - Colombia - Cuba - Dominican Republic - Ecuador - Guatemala - Haiti - Honduras - Nicaragua - Panama - Paraguay - Uruguay - Venezuela	1923	I.	15	77
- Austria	1928	I.	117	815
- Austria	1928	Ar.	118	817
- Costa Rica - Guatemala - Honduras - Nicaragua - Salvador	1923	C.	10	57
- Czechoslovakia	1928	I.	119	818
- Czechoslovakia	1928	Ar.	120	820
- Denmark	1928	Ar.	111	780
- Finland	1928	I.	107	758
- Finland	1928	Ar.	108	759
- France	1928	I, Ar	95	679
- Germany	1928	I.	103	737
- Germany	1928	Ar.	104	739
- Italy	1928	Ar.	101	725
- Liberia	1927	Ar.	60	387
- Poland	1928	I.	121	822
- Poland	1928	Ar.	122	824
- Sweden	1924	Ar.	21	107
- Sweden	1928	Ar.	128	858
Uruguay - Argentina - Brazil - Chile - Colombia - Cuba - Dominican Republic - Ecuador - Guatemala - Haiti - Honduras - Nicaragua - Panama - Paraguay - United States - Venezuela *	1923	I.	15	77
- Austria - Belgium - Bulgaria - Denmark - Estonia - Ethiopia - Finland - Germany - Haiti - Netherlands - Norway - Portugal - Spain - Sweden - Switzerland	In force since 1921	C. Ad.	129	860
- Salvador	1924	Ar.	31	176
- Spain	1922	Ar.	8	35
- Sweden	1923	C.	11	62
- Venezuela	1923	Ar.	12	69
Venezuela - Argentina - Brazil - Chile - Colombia - Cuba - Dominican Republic - Ecuador - Guatemala - Haiti - Honduras - Nicaragua - Panama - Paraguay - United States - Uruguay	1923	I.	15	77
- Bolivia	1910	Ar.	4	9
- Ecuador	1921	Ar.	6	17
- Peru	1923	Ar.	13	72
- Uruguay	1923	Ar.	12	69



## APPENDIX B

### COMMISSIONS OF INVESTIGATION AND CONCILIATION

#### I. PERMANENT COMMISSIONS

(NOTE. The Commissions marked \* had not been definitely constituted at the time of the inquiry.)

	States	Type of Commission	Number of Members	Members Appointed jointly by the Parties	Treaty or Annex No	Page
Albania	—United States *	Investigation	5	1	125	845
Austria . .	—Czechoslovakia	Conciliation	3	1	61	388
	—Poland	Conciliation	3	1	62	397
	—Spain *	Conciliation	5	3	110	768
	—Sweden	Conciliation	5	3	67	446
	—Switzerland	Conciliation	3	1	30	171
	—United States *	Investigation	5	1	117	815
Belgium . . .	—Denmark	Conciliation	5	3	79	552
	—Finland	Conciliation	5	3	80	562
	—Germany	Conciliation	5	3	45	285
	—Luxemburg *	Conciliation	3	1	89	628
	—Poland *	Conciliation	5	1	127	848
	—Portugal *	Conciliation	5	3	84	588
	—Spain	Conciliation	5	3	85	508
	—Sweden	Conciliation	5	3	65	422
	—Switzerland	Conciliation	5	3	77	538
Bolivia .	—United States *	Investigation	5	1	1 (a)	894
Brazil	—Great Britain *	Investigation	5	1	3	7
	—United States *	Investigation	5	1	1 (i)	897
Chile . . .	—Italy	Conciliation	5	3	78	544
	—Sweden	Conciliation	5	1	5	11
	—United States *	Investigation	5	1	1 (j)	897
	—Uruguay *	Investigation	5	1	1 (s)	901
China . . .	—United States	Investigation	5	1	1 (m)	899
Colombia .	—Sweden *	Conciliation	5	3	87	617
Costa Rica	—Guatemala—Honduras— Nicaragua—Salvador— United States	Conciliation	3 or more	1 <sup>1</sup>	10	57
Czecho- slovakia . .	—Austria	Conciliation	3	1	61	388
	—Denmark	Conciliation	5	1	73	504
	—Germany	Conciliation	5	3	46	293
	—Poland *	Conciliation	5	1	39	232
	—Sweden	Conciliation	5	3	53	343
	—United States *	Investigation	5	3	119	818

<sup>1</sup> The President is appointed jointly by the commissioners of the parties.

States	Type of Commission	Number of Members	Members Appointed jointly by the Parties	Treaty or Annex No.	Page
Denmark . . . -Belgium	Conciliation	5	3	79	552
-Czechoslovakia	Conciliation	5	1	73	504
-Estonia	Conciliation	5	1	75	521
-Finland	Conciliation	5	1	22	108
-France *	Conciliation	5	3	70	480
-Germany	Conciliation	5	7	68	456
-Lithuania	Conciliation	5	1	74	513
-Norway	Conciliation	5	1	23	115
-Poland *	Conciliation	5	1	64	413
-Spain *	Conciliation	5	3	98	702
-Sweden	Conciliation	5	1	24	121
-Switzerland	Conciliation	5	3	18	91
-United States	Investigation	5	1	I (d)	895
Ecuador . . -United States *	Investigation	5	1	I (p)	900
Estonia . . -Denmark	Conciliation	5	1	75	521
-Finland-Latvia-Poland	Conciliation	5-9	17	34	185
-Germany	Conciliation	3	3	42	256
-Sweden	Conciliation	5	1	40	243
Finland . . -Belgium	Conciliation	5	3	80	562
-Denmark	Conciliation	5	1	22	108
-Estonia-Latvia-Poland	Conciliation	5-9	1	34	185
-Germany	Conciliation	5	3	36	205
-Italy *	Conciliation	5	3	116	807
-Netherlands *	Conciliation	5	3	100	761
-Norway	Conciliation	5	1	25	128
-Spain *	Conciliation	5	3	106	747
-Sweden	Conciliation	5	1	26	134
-Switzerland *	Conciliation	5	3	62	652
-United States *	Investigation	5	1	107	758
France . . . -Denmark *	Conciliation	5	3	70	480
-Germany	Conciliation	5	3	47	302
-Luxemburg *	Conciliation	5	3	90	637
-Netherlands *	Conciliation	5	3	97	691
-Portugal *	Conciliation	5	3	113	793
-Rumania *	Conciliation	5	3	69	472
-Serbs, Croats, and Slovenes, Kingdom of	Conciliation	5	3	91	644
-Sweden *	Conciliation	5	3	96	683
-Switzerland *	Conciliation	5	3	38	226
-United States	Investigation	5	1	I (f)	828
Germany . . -Belgium	Conciliation	5	3	45	285
-Czechoslovakia	Conciliation	5	3	46	293
-Denmark	Conciliation	5	1	68	456
-Estonia	Conciliation	5	3	42	256
-Finland	Conciliation	5	3	36	205
-France	Conciliation	5	3	47	302
-Italy *	Conciliation	5	3	76	527
-Lithuania *	Conciliation	5	3	94	670
-Netherlands	Conciliation	5	3	66	431
-Poland	Conciliation	5	3	48	310
-Sweden	Conciliation	5	1	28	147
-Switzerland	Conciliation	5	3	7	20
-United States *	Investigation	5	1	103	737

	States	Type of Commission	Number of Members	Members Appointed jointly by the Parties	Treaty or Annex No	Page
Great Britain	-Brazil *	Investigation	5	1	3	7
"	-United States	Investigation	5	1	I (n)	899
Greece	-Italy *	Conciliation	3	1	123	925
"	-Rumania *	Conciliation	3	1	99	713
"	-Switzerland *	Conciliation	3	1	44	278
Guatemala	-Costa Rica - Honduras - Nicaragua - Salvador - United States *	Conciliation	3 <sup>or more</sup>	1 <sup>1</sup>	10	57
Honduras	-Costa Rica - Guatemala - Nicaragua - Salvador - United States *	Conciliation	3 <sup>or more</sup>	1 <sup>1</sup>	10	57
Italy	-Chile	Conciliation	5	3	75	544
"	-Finland *	Conciliation	5	3	116	807
"	-Germany *	Conciliation	5	3	76	577
"	-Greece *	Conciliation	3	1	123	825
"	-Lithuania *	Conciliation	5	3	85	621
"	-Spain	Conciliation	5	3	71	485
"	-Switzerland	Conciliation	5	3	20	164
"	-Turkey *	Conciliation	5	3	105	741
"	-United States	Investigation	5	1	I (e)	895
Latvia	-Estonia - Finland - Poland	Conciliation	5-9	1	34	155
"	-Sweden	Conciliation	5	1	37	219
Lithuania	-Denmark	Conciliation	5	1	74	513
"	-Germany *	Conciliation	5	3	94	610
"	-Italy *	Conciliation	5	3	85	621
"	-Sweden	Conciliation	5	1	41	240
Luxemburg	-Belgium *	Conciliation	3	1	80	625
"	-France *	Conciliation	5	1	90	637
"	-Spain *	Conciliation	5	3	112	782
Netherlands	-Finland *	Conciliation	5	3	109	761
"	-France *	Conciliation	5	3	97	601
"	-Germany	Conciliation	5	3	66	431
"	-Sweden	Conciliation	5	3	42	575
"	-Switzerland	Conciliation	5	3	52	316
"	-United States	Investigation	5	1	I (r)	901
Nicaragua	-Costa Rica - Guatemala - Honduras - Salvador - United States *	Conciliation	3 <sup>or more</sup>	1 <sup>1</sup>	10	57
Norway	-Denmark	Conciliation	5	1	23	115
"	-Finland	Conciliation	5	1	25	128
"	-Sweden	Conciliation	5	1	27	141
"	-Switzerland	Conciliation	5	3	43	271
"	-United States	Investigation	5	1	I (f)	896
Paraguay	-United States *	Investigation	5	1	I (k)	898
Peru	-United States *	Investigation	5	1	I (e)	806

<sup>1</sup> The President is appointed jointly by the commissioners of the parties

States	Type of Commission	Number of Members	Members Appointed jointly by the Parties	Treaty or Annex No.	Page
Poland . . . . -Austria	Conciliation	3	1	62	397
-Belgium *	Conciliation	5	1	127	848
-Czechoslovakia	Conciliation	5	1	39	232
-Denmark *	Conciliation	5	1	64	413
-Estonia-Finland-Latvia	Conciliation	5-9	1	34	185
-Germany	Conciliation	5	1	48	310
-Serbs, Croats, and Slovenes, Kingdom of *	Conciliation	5	1	12	495
-Sweden	Conciliation	5	3	49	319
-Switzerland	Conciliation	5	3	35	196
-United States *	Investigation	5	1	121	822
Portugal . . . -Belgium *	Conciliation	5	3	84	588
-France *	Conciliation	5	3	113	793
-Spain *	Conciliation	5	3	93	662
-Switzerland	Conciliation	5	3	124	834
-United States *	Investigation	5	1	I (b)	894
Rumania . . . -France *	Conciliation	5	3	60	472
-Greece *	Conciliation	3	1	99	713
-Switzerland	Conciliation	5	3	58	373
Salvador . . . -Costa Rica - Guatemala	Conciliation	3 more	1 <sup>1</sup>	10	57
-Honduras - Nicaragua					
-United States *					
Serbs, Croats, and Slovenes, Kingdom of					
-France	Conciliation	5	3	91	644
-Poland *	Conciliation	5	1	72	495
Spain . . . -Austria *	Conciliation	5	3	110	768
-Belgium	Conciliation	5	3	85	598
-Denmark *	Conciliation	5	3	98	702
-Finland *	Conciliation	5	3	106	747
-Luxemburg *	Conciliation	5	3	112	782
-Italy	Conciliation	5	3	71	488
-Portugal *	Conciliation	5	3	93	662
-Sweden	Conciliation	5	3	102	726
-Switzerland	Conciliation	5	3	63	400
-United States	Investigation	5	1	I (a)	900
Sweden . . . -Austria	Conciliation	5	3	67	446
-Belgium	Conciliation	5	3	69	422
-Chile	Conciliation	5	1	5	11
-Colombia *	Conciliation	5	3	87	617
-Czechoslovakia	Conciliation	5	3	53	343
-Denmark	Conciliation	5	1	24	121
-Estonia	Conciliation	5	1	40	243
-Finland	Conciliation	5	1	26	134
-France *	Conciliation	5	3	96	683
-Germany	Conciliation	5	1	28	147
-Latvia	Conciliation	5	1	37	219
-Lithuania	Conciliation	5	1	41	249

<sup>1</sup> The President is appointed jointly by the commissioners of the parties.

States	Type of Commission	Number of Members	Members Appointed jointly by the Parties	Treaty or Annex No.	Page
Sweden . . . -Netherlands	Cconciliation	5	3	82	578
(cont.) -Norway	Cconciliation	5	1	27	141
-Poland	Cconciliation	5	3	49	319
-Spain	Cconciliation	5	3	102	726
-Switzerland	Cconciliation	5	3	17	84
-United States	Investigation	5	1	I (g)	900
-Uruguay *	Cconciliation	5	1	11	62
Switzerland. -Austria	Cconciliation	3	1	30	171
-Belgium	Cconciliation	5	3	77	534
-Denmark	Cconciliation	5	3	18	91
-Finland *	Cconciliation	5	3	92	652
-France *	Cconciliation	5	3	38	226
-Germany	Cconciliation	5	3	7	20
-Greece *	Cconciliation	3	1	44	278
-Italy	Cconciliation	5	3	29	164
-Netherlands	Cconciliation	5	3	52	336
-Norway	Cconciliation	5	3	43	271
-Poland	Cconciliation	5	3	35	196
-Portugal	Cconciliation	5	3	124	834
-Rumania	Cconciliation	5	3	58	373
-Spain	Cconciliation	5	3	63	406
-Sweden	Cconciliation	5	3	17	84
Turkey . . . -Italy *	Cconciliation	5	3	105	741
United States . . . -Albania *	Investigation	5	1	125	845
-Austria *	Investigation	5	1	117	815
-Bolivia *	Investigation	5	1	I (a)	894
-Brazil *	Investigation	5	1	I (i)	897
-Chile *	Investigation	5	1	I (j)	897
-China	Investigation	5	1	I (m)	899
-Costa Rica - Guatemala - Honduras - Nicaragua - Salvador *	Cconciliation	3 <sup>or more</sup>	1 <sup>1</sup>	10	57
-Czechoslovakia *	Investigation	5	1	119	818
-Denmark	Investigation	5	1	I (d)	895
-Ecuador *	Investigation	5	1	I (p)	900
-Finland *	Investigation	5	1	107	758
-France	Investigation	5	1	I (l)	898
-Germany *	Investigation	5	1	103	737
-Great Britain	Investigation	5	1	I (n)	899
-Italy	Investigation	5	1	I (e)	895
-Netherlands	Investigation	5	1	I (r)	901
-Norway	Investigation	5	1	I (f)	896
-Paraguay *	Investigation	5	1	I (k)	898
-Peru *	Investigation	5	1	I (g)	895
-Poland *	Investigation	5	1	121	822
-Portugal *	Investigation	5	1	I (b)	894
-Spain	Investigation	5	1	I (o)	900
-Sweden	Investigation	5	1	I (q)	900

<sup>1</sup> The President is appointed jointly by the commissioners of the parties.

States	Type of Commission	Number of Members	Members Appointed jointly by the Parties	Treaty or Annex No.	Page
United States ...-Uruguay *	Investigation	5	1	I (h)	897
(cont.) -Venezuela *	Investigation	5	1	I (c)	895
Uruguay ...-Chile *	Investigation	5	1	I (s)	901
-Sweden *	Conciliation	5	1	II	62
-United States *	Investigation	5	1	I (h)	897
Venezuela ...-United States *	Investigation			I (c)	895

## II. NON-PERMANENT COMMISSIONS

The following treaties provide also for Commissions of Investigation or Conciliation, the membership of which, however, is not permanent:

1. Treaty between the American Republics (Gondra Convention) concluded at Santiago de Chile on May 3, 1923 (No. 15). It provides for two permanent committees, one at Washington and the other at Montevideo, each composed of the three American diplomatic agents longest accredited there. These committees can be called upon to form a Commission of Investigation of five members if a case arises.<sup>1</sup>

2. Hungary-Switzerland, June 18, 1924 (No. 19). It provides for one conciliator to be selected whenever a case arises.

3. Hungary-Italy, April 5, 1927 (No. 81). A Commission of Conciliation consisting of three members will be created in each particular case.

4. Colombia-Switzerland, August 20, 1927 (No. 86). It provides for a Commission of Conciliation composed of three members to be appointed for each particular case.

5. Denmark-Haiti, April 5, 1928 (No. 100). The treaty provides for the appointment of one conciliator whenever a case arises.

6. Ethiopia-Italy, August 2, 1928 (No. 115). See Article 5.

<sup>1</sup> The powers of these committees and commissions have been enlarged in the General Convention of Inter-American Conciliation signed at Washington on January 5, 1929. See Annex V, a.

## III. ALPHABETICAL LIST OF COMMISSIONERS

Name	Commissions	Name	Commissions
Adatci, Minéitciro	34	Ehrnrooth, Leo	41
Aldao, Ricardo	I (d)	Eichhoff, John Andreas	61, 62, 67
Alten, Edwin	I (f)	Ekeberg, Lars Birger	65, 82
Alvarado, Alejandro	10	Erich, Rafael	23, 25, 26, 65, 75, 80
Amposta, Marqués de	85	Eysinga, Jonkheer W. J. M. van	7, 26, 27, 28, 45, 46, 47, 52, 69
Anderson, Luis	10		
Anzilotti, Dionisio	I (f)	Fehr, Martin	37
Arias, Juan Rafael	10	Fitzpatrick, Sir Charles	I (n)
Atkin, James Richard	85	Fleischmann, Max	68
Avery, Samuel	I (g)	Fontenay, Viscount J. de	74
Ayon, Alfonso	10	Foster, John G.	I (k)
		Franck, Louis	29
Bagge, Algot	41	François, I. P. A.	79
Barreto, Anselmo	I (g)	Fromageot, Henry	18
Beelaerts van Blokland, Jonkheer	73		
Beichmann, Fredefik V. N.	5, 27, 47, I (g)	Giuriati, Giovanni Battista	78
Bencs, E.	74	Goodnow, Frank J.	I (m)
Berg, Arved	34, 37, 40	Gram, Gregers W. W.	I (e)
Berlin, Knud	25	Guani, Alberto	65
Bernhoff, H. A.	64	Guex, Robert	27
Beucker Andreac, W. C.	80		
Birke, P. M. L.	75	Hammarckjöld, Knut H. L.	7, 85, I (m)
Blanesburgh, Lord	102	Hanotaux, Gabriel	I (q)
Bonin-Longare, Count L.	43, 63	Hardinge of Penshurst, Lord	63
Böök, Einar	92	Hellner, Johannes	5, 23, I (f), (q)
Booth, Willis H.	I (i)	Hojer, Thorwald	73
Borden, Sir Robert L.	I (b)	Holenstein, Thomas	58
Borel, Eugène	28, 70	Hora, Vaclav	39
Bourcart, C. D.	24	Horst, H. J.	I (m)
Bredal, Johan	23	Horwood, Sir William	I (n)
Brouckère, Louis de	45	Huber, Max	I (q)
Brun, Constantin	I (k)	Hutchins, Harry B.	I (h)
Bunsen, Sir Maurice de	71	Hyde, Charles C.	I (c)
Burckhardt, Walter	29, 41	Hymans, Paul	25, 58
Calame, Henry	77	Idman, K. G.	18
Cañon de Wiart, Count H.	17, 71, 85, I (l)	Irgens, R. J.	75
Cecil of Chelwood, Viscount	23	Iseghen, van	I (e)
Cobian, Ed.	58		
Cohn, George	18	Jay, Peter A.	I (o)
Colijn, H.	82	Jørgensen, Paul Johannes	23, I (d)
Conti, Robert	91	Jusserand, Jules	39, 82, I (n)
Cox, James M.	I (b)		
Cruchaga, Miguel	I (o)	Kallab, Jaroslav	53, 61
		Karnebeek, Jonkheer H. A. van	5, 18, 66, 78
Dandurand, Raoul	I (i)		
Davis, Norman H.	I (j)	Kellberg, Erik Martin	53
Delaquis, Ernest	36	Keller, Gottfried	52
Derussi	69	Kienböck, Viktor	30
Dietrich, Hermann	7	Kihlman, Lorenzo	22
Djuric, Djordje	39	Koo, V. K. Wellington	I (m)
Dollfus, Roger	43, I (r)	Koumanoudi	91
Dvoracek, Jan	73	Kucharzewski, Jean	64

# APPENDIX B

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Name	Commissions	Name	Commissions
Laidoner, Johan	37, 75	Räber, Josef	30
Lange, Christian	74	Raestad, Arnold	25, 35, 62, 66, 67, 92
Lapradelle, A. de	22, 65, 92	Rambert, Paul	61
Laughlin, Irwin	1 (d)	Ramel, Baron F.	17
Lenroot, Irvine Luther	1 (n)	Rappard, William Emmanuel	18
Limburg, Joseph	37, 58, 67, 75	Reuter, Emil	52
Lira, Alejandro	78	Rodd, Sir James Rennell	30, 78, 82, 1 (c)
Löfgren, Eliel	24, 52	Rode, Ove	27
Logoz, Paul	40, 47, 60	Roemeris, Nykolas	41
Lohner, Emil	17	Rolin, Baron Alberic	35
Lopatto, John	41	Rolin, Henry	49, 65, 67, 79
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## BIBLIOGRAPHY

IN carrying out this research, the lack of an adequate bibliography on the pacific settlement of international disputes has been keenly felt. The literature on this subject has increased since 1900 to such an extent that it has become impossible to survey the whole field. As a preliminary to the present study a list of publications has been compiled. This list is given below. It cannot claim to be complete, but is merely a selection of books which came to the writer's notice in visiting the libraries of the Secretariat of the League of Nations, the Peace Palace at The Hague, and the Olivart Library of International Law of the Harvard Law School.

The references are classified in five sections and listed in alphabetical order according to the names of the authors. Section V, which contains all references not included under one of the foregoing headings, distinguishes further between publications which appeared before 1919 and those which have been published since the World War.

The order of classification is as follows:

- I. Literature on the history of the pacific settlement of international disputes.
- II. Literature on the Hague Conventions for pacific settlement and the Permanent Court of Arbitration.
- III. Literature on the pacific settlement of international disputes by the League of Nations.
- IV. Literature on the Permanent Court of International Justice.
- V. Other literature on the pacific settlement of international disputes.
  - (a) Publications previous to 1919.
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The literature on this subject may be divided into three groups:

1. General studies on the League of Nations, dealing, among other things, with the methods of pacific settlement provided by the Covenant. For a guide to the extensive literature of this kind, see:

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2. Records of the meetings of the Assembly, the Council, the commissions and committees of the League of Nations dealing with the pacific settlement of international disputes. For these sources consult: Index to the official publications of the League of Nations, under: Arbitration, Conciliation, and Pacific Settlement of International Disputes.

3. Monographs on special topics of the pacific settlement of international disputes through the League of Nations. Some of these publications are:

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- Nos. 2 and 3. Advisory Opinions relating to the competence of the International Labor Organization in regard to the international regulation of the conditions of labor of persons employed in agriculture, and examination of proposals for the organization and development of the methods of agricultural production and other questions of a like character, given by the Court on August 12, 1922.
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*Series D. — Acts and Documents concerning the Organization of the Court.*

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No. 2. Preparation of the Rules of Court. — Minutes of Meetings during the Preliminary Session of the Court, with annexes.

*Addendum to No. 2:*

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No. 3. Collection of Texts governing the jurisdiction of the Court.

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